

PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION,
TUESDAY, AUGUST 13, 1968.

CITY OF FORT WAYNE, INDIANA
Journal of the Proceedings
of the Common Council

The Common Council of the City of Fort Wayne met in the Council Chamber Tuesday
evening, August 13, A.D., 1968 in Regular Session. President
Jack K. Dunifon in the chair, and Fuad G. Bonahoom Clerk, at the desk,
present the following members _____ viz:

Adams ✓ Dunifon ✓ Fay ✓ Geake ✓ Nuckols ✓ Robinson ✓
Rousseau ○ Steigerwald _____ Tipton ✓.

Absent 2 viz: Councilman _____

The minutes of the last regular July 23, 1968 session having been delivered
to the Council, were, on Motion, approved as published.

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on May 28, 1968, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-68-05-28; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

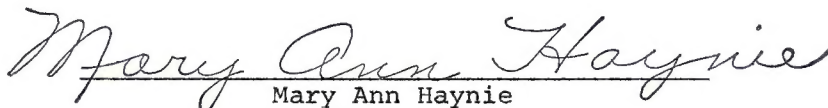
WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on June 17, 1968;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the city, and the amendment will not be detrimental to and does not conflict with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held June 24, 1968.

Certified and signed this
31st day of July 1968.


Mary Ann Haynie
Secretary

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on May 28, 1968, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-68-05-29; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

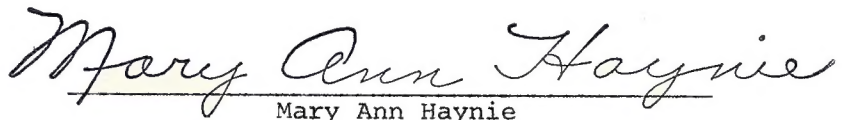
WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 15, 1968;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the city, and the amendment will not be detrimental to and does not conflict with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

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31st day of July 1968.


Mary Ann Haynie
Secretary

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on May 28, 1968, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-68-05-30; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

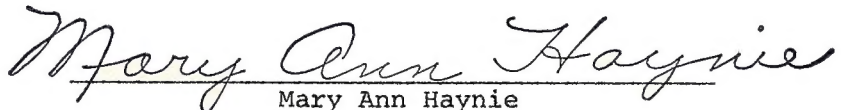
WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 15, 1968;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the city, and the amendment will not be detrimental to and does not conflict with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

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Mary Ann Haynie
Secretary

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on June 11, 1968, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-68-06-08; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

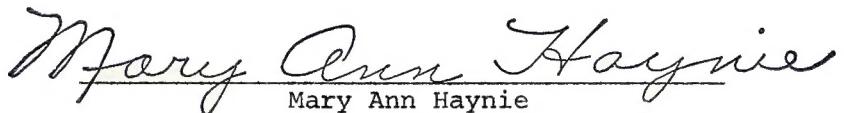
WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 15, 1968;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO NOT PASS for the reasons that no need has been shown for the Land Use Plan to be amended, the amendment will not be in the best interest of and benefit to the area involved and of and to the city, and the amendment will be detrimental to and conflicts with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

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31st day of July 1968.


Mary Ann Haynie
Secretary

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on June 11, 1968, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-68-06-10; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

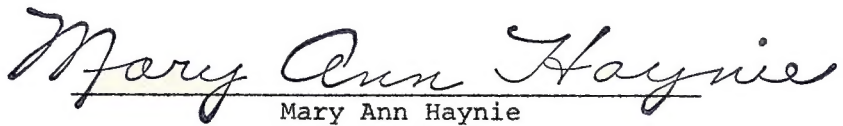
WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 15, 1968;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO NOT PASS for the reasons that no need has been shown for the Land Use Plan to be amended, the amendment will not be in the best interest of and benefit to the area involved and of and to the city, and the amendment will be detrimental to and conflicts with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

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Certified and signed this
31st day of July 1968.


Mary Ann Haynie
Secretary

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on June 11, 1968, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-68-06-11; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 15, 1968; and,

WHEREAS, this Plan Commission finds that in the interest of the public and the spirit of the Zoning Ordinance, said proposed bill to rezone could be improved by deleting the letter and number "M1" and substituting therefor the letters and number "B3B", and that such change amounts to perfecting the bill and does not constitute a fundamental change or one which will alter the identity of the proposal;

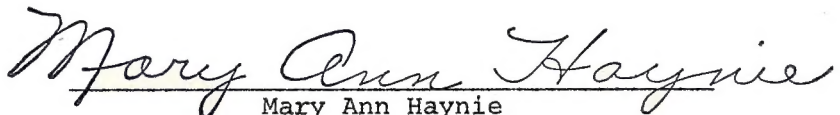
NOW THEREFORE, BE IT RESOLVED that said ordinance be amended by deleting the letter and number "M1" and substituting therefor the letters and number "B3B"; and,

1. That such change amounts to perfecting the bill and does not constitute a fundamental change or one which will alter the identity of the proposal; and,
2. That as so amended, said ordinance DO PASS.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 22, 1968.

Certified and signed this
31st day of July 1968.


Mary Ann Haynie
Secretary

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on May 28, 1968, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-68-05-25; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on July 15, 1968; and,

WHEREAS, this Plan Commission finds that in the interest of the public and the spirit of the Zoning Ordinance, said proposed bill to rezone could be improved by including Lots 1, 2, 6, 7, 8, 9 and 10 in Perry's Suburban Addition and Lots 1 through 9, both inclusive, in Santa Rosa Place Addition, and that such change amounts to perfecting the bill and does not constitute a fundamental change or one which will alter the identity of the proposal;

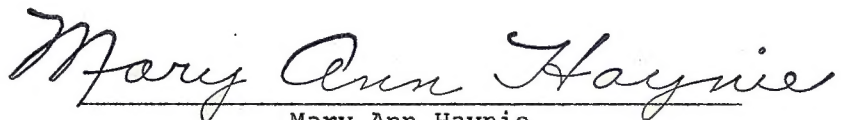
NOW THEREFORE, BE IT RESOLVED that said ordinance be amended by including Lots 1, 2, 6, 7, 8, 9 and 10 in Perry's Suburban Addition and Lots 1 through 9, both inclusive, in Santa Rosa Place Addition; and,

1. That such change amounts to perfecting the bill and does not constitute a fundamental change or one which will alter the identity of the proposal; and,
2. That as so amended, said ordinance DO PASS.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 22, 1968.

Certified and signed this
31st day of July 1968.


Mary Ann Haynie
Secretary

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on May 28, 1968, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-68-05-27; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

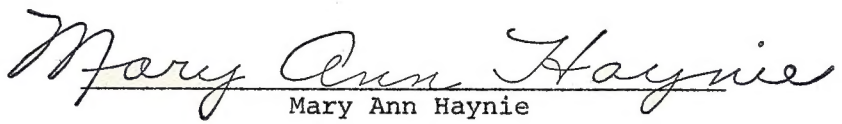
WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on June 17, 1968;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance DO PASS for the reasons that a need has been shown for the Land Use Plan to be amended, the amendment will be in the best interest of and benefit to the area involved and of and to the city, and the amendment will not be detrimental to and does not conflict with the overall city plan;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held July 22, 1968.

Certified and signed this
31st day of July 1968.


Mary Ann Haynie
Secretary



City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

August 12, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

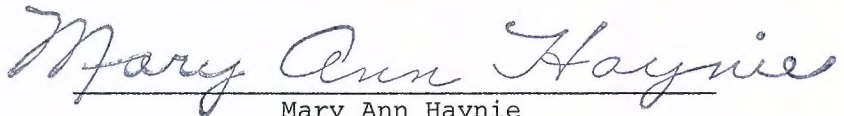
Attached hereto is a resolution for the vacation of a portion of Columbia Street along with recommendations of the City Plan Commission on nine (9) ordinances concerning the amendment of the Zoning Ordinance (General Ordinance Number 2836, amending Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946). The proposed ordinances are designated as:

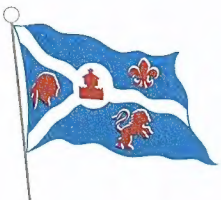
Bill No. Z-68-05-25-
Bill No. Z-68-05-27-
Bill No. Z-68-05-28-
Bill No. Z-68-05-29-
Bill No. Z-68-05-30-
Bill No. Z-68-06-08-
Bill No. Z-68-06-09
Bill No. Z-68-06-10-
Bill No. Z-68-06-11-

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
12th day of August, 1968.


Mary Ann Haynie
Secretary



MADE A MATTER OF RECORD
DATE 8-13-68 FUAD G. DONAHOO, CITY CLERK

RESOLUTION

WHEREAS, the City of Fort Wayne, Department of Redevelopment, has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of a public street within the City of Fort Wayne, more particularly described as follows:

That portion of Columbia Street located between the East boundary line of Calhoun Street and the West boundary line of Clinton Street.

All in accordance with the terms of Section 44, Chapter 174, of the Acts of 1947 of the General Assembly of the State of Indiana, as amended by Section 3, Chapter 385, of the Acts of 1963 of the General Assembly of the State of Indiana (Burns Indiana Statutes Annotated, 1964, replacement, Section 53-744); and

WHEREAS, notice of such public hearing has been given by due and proper publication thereof; and

WHEREAS, said public hearing was held on the 22nd day of July, 1968, at 7:30 P. M., and at such hearing there were no objections of any kind or character which would prevent the vacation of said public street.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said public street hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Allen County, Indiana; and


BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said public street hereinbefore described be and in the same is hereby approved; and

BE IT FINALLY RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of streets and alleys in the City of Fort Wayne, Allen County, Indiana.

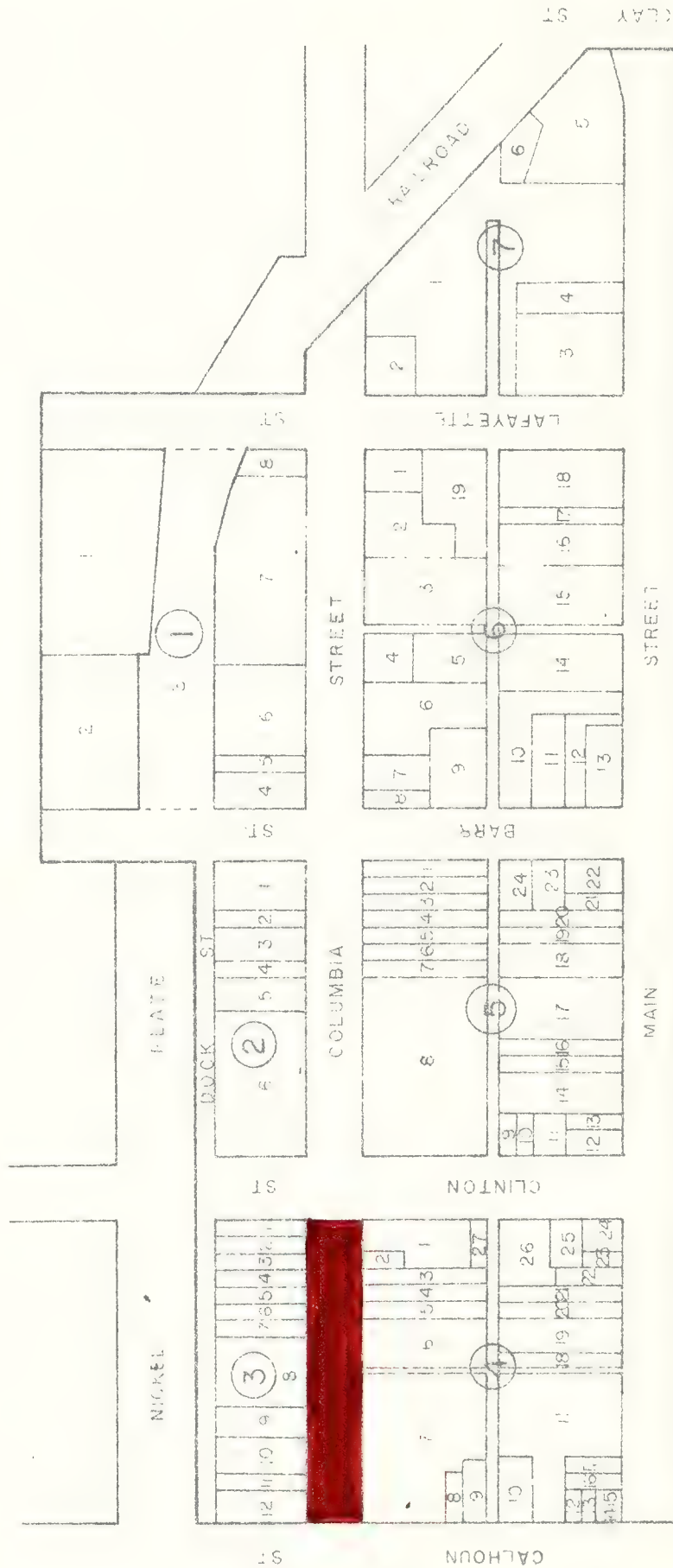
STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, Arthur C. Richard, President of the Fort Wayne City Plan Commission, do hereby certify that attached hereto is a full, true and correct copy of a Resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held on the 22nd day of July, 1968, and as the same appears on record in the official records of said Plan Commission.

DATED THE 22nd DAY OF July, 1968.



President
Fort Wayne City Plan Commission



MAIN STREET PROJECT NUMBER IND-R-52

STREET PROPOSED FOR VACATION = ●



City of Fort Wayne

HAROLD S. ZEIS
Mayor

COMMUNICATION FROM THE MAYOR

To the Common Council
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

Today, July 24, 1968, I have approved the following ordinances passed by the Common Council at its regular meeting on July 23, 1968:

(Bill No. Z-68-02-42)

ZONING MAP ORDINANCE NO. Z-30-68

AN ORDINANCE amending the City of Fort Wayne Zoning Map No. B-17.

(Bill No. ~~X~~-68-05-15)(Amended)

ANNEXATION ORDINANCE NO. X-08-68

AN ORDINANCE annexing certain territory to the City of Fort Wayne and including the same in Councilmanic District No. 2.

(Bill No. X-68-06-12)(Amended)

ANNEXATION ORDINANCE NO. X--09-68

AN ORDINANCE annexing certain territory to the City of Fort Wayne and including the same in Councilmanic District No. 3.

(Bill No. X-68-06-14)(Amended)

ANNEXATION ORDINANCE NO. X-10-68

AN ORDINANCE annexing certain territory to the City of Fort Wayne and including the same in Councilmanic District No. 2.

(Bill No. A-68-07-01)

APPROPRIATION ORDINANCE NO. A-17-68

AN ORDINANCE appropriating and transferring certain funds within the 1968 Budget of the Redevelopment Commission.

(Bill No. A-68-07-02)

APPROPRIATION ORDINANCE NO. A-18-68

AN ORDINANCE transferring certain funds within the 1968 Budget of the Traffic Engineering Department.



(Bill No. S-68-07--03)(Amended)
SPECIAL ORDINANCE NO. S-92-68
AN ORDINANCE fixing the salaries of each and every appointive officer, employee, deputy, assistant and departmental and institutional head of the City of Fort Wayne, Indiana for the year 1969.

(Bill No. S-68-07-04)
SPECIAL ORDINANCE NO. S-93-68
AN ORDINANCE approving a certain bid document with MIDWEST FIRE & SAFETY EQUIPMENT CO., INC. for fire hose and nozzles.

(Bill No. S-68-07-05)
SPECIAL ORDINANCE NO. S-94-68
AN ORDINANCE approving a certain bid document with PASS ELECTRIC, INC. for Traffic Signal at Taylor Street and Bevel Avenue.

(Bill No. S-68-07-06)
SPECIAL ORDINANCE NO. S-95-68
AN ORDINANCE approving a contract with C. A. GRIEGER, INC. for three 1968 Biscayne sedans.

(Bill No. S-68-07-07)
SPECIAL ORDINANCE NO. S-96-68
AN ORDINANCE approving a contract with HIPSKIND ASPHALT CORPORATION for resurfacing Westbrook Drive.

(Bill No. S-68-07-08)
SPECIAL ORDINANCE NO. S-97-68
AN ORDINANCE approving a contract with WAYNE ASPHALT & CONSTRUCTION CO., INC. for resurfacing Boone Street.

(Bill No. S-68-07-09)
SPECIAL ORDINANCE NO. S-98-68
AN ORDINANCE ordering a curbwalk on the north side of Irene Avenue from the west property line of Poinsette Drive to the west property line of Lot 24, Neuhaus Acre Addition, in the City of Fort Wayne, Allen County, Indiana.


(Bill No. G-68-07-19)
GENERAL ORDINANCE NO. G-25-68
AN ORDINANCE amending the Traffic Code as to the placement of traffic signals.

(Bill No. G-68-07-20)
GENERAL ORDINANCE NO. G-26-68
AN ORDINANCE amending Chapter 31 of the Municipal Code of the City of Fort Wayne, 1946, as amended, with respect to bicycles and imposing penalties.

(Bill No. R-68-07-43)
RESOLUTION NO. R-18-68
RESOLUTION authorizing payment for repairs to Miner Playground Shelter.

(Bill No. R-68-07-44)
RESOLUTION NO. R-19-68
RESOLUTION authorizing payment for repairs to City-owned vehicle.

Respectfully submitted,


Harold S. Zeis
Mayor.

MADE A MATTER OF RECORD
DATE 8-13-68 RUAD C. BOWMAN, CITY CLERK

Mr. Arthur Richard, Chairman)	Remonstrators
Plan Commission,)	VS
Fort Wayne, Indiana)	Spreen Petition

MOTION TO DISMISS

Now comes Charles S. Penfold in behalf of the Remonstrators in the above-entitled cause and moves that the Petition filed by Louise Spreen be dismissed forthwith with prejudice.

This Motion is predicated on the failure of the party Spreen and those in concert with her to appear at the Hearing on July 15, 1968 and prosecute the Petition.

This failure is additional evidence supporting the position of the Remonstrators, as alleged in the Brief filed at the Hearing, that they are being "Harassed".

This issue will be an important factor if there are any future proceedings on the subject by Louise Spreen.

Remonstrators

By Charles S. Penfold
Charles S. Penfold

Dated: July 22, 1968

CC - Mr. William Jones

REMONSTRANCE
vs
SPREEN PETITION

July 15, 1968

The undersigned owners of property hereby respectfully submit that the Petition of Louise Spreen recently filed for the purpose of rezoning her property (lots 9 and 10) located exclusively in a relatively large "R-1" District to an "R-3" District should be denied in view of the following reasons:

1. Harassment.
2. The Petition is an attempt to "Spot-Zone" and if granted, would constitute a violation of the Master Plan.
3. Such rezoning would create difficult and dangerous traffic conditions.
4. Any increase in population density by an apartment complex would burden school facilities.
5. No sewer exists which is sufficient to accommodate disposal from any building complex on lots 9 and 10.
6. The costs with respect to land improvements in the Oswego area would be excessive and discriminatory.

1. HARASSMENT

The record shows that Mrs. Spreen signed and filed a Petition for the purpose of rezoning her lots 9 and 10 in an R-1 District to an R-3 District. A Hearing on that Petition was scheduled for April 15, 1968. A letter dated April 15, 1968 was filed in her behalf with the Plan Commission requesting withdrawal of that Petition. A copy of that letter is appended hereto and marked Exhibit A.

Attention is directed to the important fact that that letter was completely out of order and is null and void because of failure to comply with Paragraph 3, Section 2 of Article 5 of the By-Laws of the Fort Wayne Plan Commission, a copy of which is marked Exhibit B and appended hereto.

The request for withdrawal of the Petition also appears to be invalid because it is not at the request of the Petitioner but is by a third party not of record in this case.

The Plan Commission in a document entitled "Resolution of Zoning Ordinance Amendment Recommendation" dated April 25, 1968, marked Exhibit C and appended hereto, recommended that Bill No. Z-68-03-14 be withdrawn in accordance with the written request of the Petitioner and the Committee On Regulations of the Common

Council on May 14, 1968 also recommended that this Bill be withdrawn as per appended Exhibit D.

Question - How can the Plan Commission and Common Council act on a matter that is in violation of the By-Laws?

The present Petition is the third one that has been filed for consideration by this Plan Commission and in my opinion, this repetitive filing of Petitions in this case is tantamount to "harassment" of the property owners in the Oswego area. This factor will most certainly be an issue if the subject rezoning matter is litigated. As I understand, under the present practice a Petitioner can withdraw and refile a Petition for rezoning every thirty days. I believe it is time the By-Laws were amended to avoid such harassment.

The record further shows that a Harold D. Palmer remitted the sum of \$25.00 on May 28, 1968 for the purpose of rezoning lots 9 and 10. Mr. Palmer is not a party to that Petition and cannot be one under the law, and under the circumstances, his payment for the purpose of his rezoning of lots 9 and 10 is clearly out of order and should be returned to him.

2. THE PETITION IS AN ATTEMPT TO "SPOT-ZONE" AND IF GRANTED,
WOULD CONSTITUTE A VIOLATION OF THE MASTER PLAN.

"Spot-Zoning" has been defined by the New York Court of Appeals as the process of "singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners".

Rodgers v. Village of Tarrytown, 302 N.Y. 715, 96 N.E. 2d 731 (1951).

Thus, if the amendment is not consistent with the over-all development of the community, or if it benefits one owner at the expense of his neighbors or of the community, it will be declared invalid.

The above is the situation in the present case. Mrs. Spreen is seeking a special privilege in an endeavor to maximize the use of her land, at the expense of her neighbors and the community. Political pressures being what they are, and the long-term consequences of small changes never appearing to be significant, many communities destroy by amendment the very plan which would have protected them against unnecessary financial expense, blighted areas, traffic congestion, and inadequate municipal services.

"Spot-Zoning" is the very antithesis of planned zoning.

In the great majority of cases the amendments remove land from more restrictive classifications and place it in less restricted zones and thus destroy piecemeal the carefully prepared professional plan.

Attention is directed to the Plan Commission's Notice entitled "Restatement Of Policy" which was approved on December 10, 1956, a copy of which is marked Exhibit E and appended hereto. Also appended is an Exhibit F entitled "Supplement to Restatement Of Policy."

The State statutes, among other things, requires with respect to an "R-3" District:

d. 1. The building commissioner shall issue an improvement and location permit when the developer has satisfactorily proven to the building commissioner that the following conditions exist:

1. The increased density that will result by the installation of this use will not impose any hardship on the existing schools serving the area in which the development will take place.

2. All existing sewers, water lines, streets and sidewalks serving the area proposed for development are adequate

to handle the increased density that will occur as a result of the use involved.

3. The increased density as proposed by the improvement and location permit will not impose any hardship on the following elements of the development plan of the city:

(a) Land use plan.

(b) Thoroughfare plan.

(c) Sewer plan.

(d) Water plan.

(e) School plan.

(f) Park and playground plan.

(d) II. If the building commissioner does not issue an improvement and location permit within fifteen days after a written demand to do so by developer or applicant, an appeal will lie to the board of zoning appeals.

(e) The parcel of land upon which the use is erected shall have direct public access to a street as defined in this chapter for purposes of vehicular traffic, off-street parking, utilities and other services such as mail delivery, garbage collection, fire and emergency units, etc.

(f) The arrangement of buildings shall be such that in the event the land is subdivided there shall be sufficient space

between buildings, between buildings and the street and between buildings and property lines to allow for the minimum platting requirements of chapter 28A and this chapter.

(g) The minimum area of the site to be developed, exclusive of all public streets, alleys or other public ways, shall not be less than forty-five thousand square feet with a minimum lot frontage of one hundred fifty feet.

(h) The nearest fifteen feet to any side or rear property line adjoining a single family residence building shall be landscaped and in no event shall parking be permitted nearer than fifteen feet to the side or rear property line adjoining such single family residence building.

(i) In no event shall the building commissioner issue an improvement and location permit or a certificate of occupancy for a use where the density exceeds one thousand square feet per living unit for structures of three to five stories and one thousand two hundred and fifty square feet for structures two stories or less except by action of the board of zoning appeals.

The Petitioner has not produced any evidence at this Hearing to justify (1) that there is any need for the Plan to be amended;

(2) that the amendment would be in the best interests and benefit to the Oswego area; and (3) that the amendment does not conflict with the overall master city plan. Otherwise expressed, the Petitioner has not met the burden of proof to justify any change in the existing "R-1" District.

Of particular significance is the important fact that a substantially square mile area bounded by the St. Joe River on the north and west and by Anthony Boulevard and East State Boulevard on the east and south is substantially an "R-1" District.

It should be observed that the area directly north and northwest of lots 9 and 10 across the river is also designated "R-1".

There are business areas on Anthony Boulevard, some along East State, Crescent and Parnell and the Plan Commission is to be commended in limiting the scope of such business in these areas.

Insofar as presently known, there is only one apartment setup in the above area, and this is the Florida Apartments Inc. at the intersection of Florida and East State Boulevard.

An article entitled "POPULATION AREA GROWTH TO CONTINUE" was published on January 1, 1963 in the News-Sentinel. I quote a part of that article by William J. Jones:

"Without a doubt, the single family residential development activity in Fort Wayne will continue as it has in the past; this is due to the fact that Fort Wayne is such a predominately high home-ownership city. With approximately 65 to 70 per cent of the homes being owner-occupied, we see no reason why this trend should change."

The remonstrators respectfully trust that the "trend", above referred to, has not changed with respect to the property in question.

In an earlier article entitled "PLAN UNIT SHAPES CITY'S GROWTH ON A WIDE VARIETY OF FRONTS" published in the News-Sentinel on July 18, 1960 it appears that Mr. Jones, among other things, was quoted as follows:

"If you don't plan you just have a hodge-podge. We could do more for residences if people would take advantage of the commission's services."

The editor quoted Mr. Jones as saying that "a person buying a home could check to see if the neighborhood is zoned, get power and water advice, and know the full situation and the character of the neighborhood as far as the physical development is concerned."

If the Petition were granted, the sole beneficiary would be Mrs. Spreen and those in concert to the detriment of all of the remonstrators which number in the excess of 375 - the remonstrators would not receive a single advantage.

If individuals cannot rely on an "R-1" in the purchase of and in the improvement of residential property, then there is no need of the Master Plan for the city of Fort Wayne.

In view of the above, it is submitted that the majority of the property owners in the Oswego area and contiguous areas have purchased homes, constructed new homes or have made improvements on the basis that the area is an "R-1" District. Such rezoning constitutes an inducement or an implied contract that the area will remain such a District.

The fact that there have been no changes in the status-quo of the Oswego area since the Hearing on the first Spreen Petition over a year ago should be sufficient to support a denial of the present Petition.

The Plan Commission can exercise its Police Power and can deny the Petition, and its position could be supported by the decision rendered by the United States Supreme Court in the case of Village of Euclid, Ohio et al v. Ambler Realty Co. 272 U.S.

365, a copy of which is appended hereto and marked Exhibit G.

Note the following excerpts of the opinion in that case:

The matter of zoning has received much attention at the hands of commissions and experts, and the results of their investigations have been set forth in comprehensive reports. These reports, which bear every evidence of painstaking consideration, concur in the view that the segregation of residential, business and industrial buildings will make it easier to provide fire apparatus suitable for the character and intensity of the development in each section; that it will increase the safety and security of home life, greatly tend to prevent street accidents, especially to children, by reducing the traffic and resulting confusion in residential sections, decrease noise and other conditions which produce or intensify nervous disorders, preserve a more favorable environment in which to rear children, etc. With particular reference to apartment houses, it is pointed out that the development of detached house sections is greatly retarded by the coming of apartment houses, which has sometimes resulted in destroying the entire section for private house purposes; that in such sections very often the apartment house is a mere parasite, constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district. Moreover, the coming of one apartment house is followed by others, interfering by their height and bulk with the free circulation of air and monopolizing the rays of the sun which otherwise would fall upon the smaller homes, and bringing, as their necessary accompaniments, the disturbing noises incident to increased traffic and business, and the occupation, by means of moving and parked automobiles, of larger portions of the streets, thus detracting from their safety and depriving children of the privilege of quiet and open spaces for play, enjoyed by those in more favored localities - until, finally, the residen-

tial character of the neighborhood and its desirability as a place of detached residences are utterly destroyed. Under these circumstances, apartment houses, which in a different environment would be not only entirely unobjectionable but highly desirable, come very near to being nuisances.

Attention is also directed to another U.S. Supreme Court decision *Nectow v. Cambridge*, 277 U.S. 183 which held that:

A zoning ordinance which places a particular tract of land in a residence district and excludes it from being used for other purposes, is void as to such land, if it clearly appears that the health, safety, convenience or general welfare of the part of the city affected will not be promoted thereby.

The entrance of one apartment house or flat into a district usually means the entrance of others, and, while it may mean an enhancement of value of the adjacent property for the building of similar structures, it detracts from the value of neighboring property for home building. The man who is seeking to establish a permanent home would not deliberately choose to build next to an apartment house. In other words, apartment buildings, tenement flats and like structures tend to the exclusion of homes. An owner may move to another district, but this may not be a sufficient solution of his problem, for if no protection can be given to strictly home districts--such as is contemplated by the comprehensive and properly constructed zoning plan

as we presently have in Fort Wayne--he may be forced by the ever-increasing encroachment of apartments and flats to relinquish, if not altogether abandon, the benefits emanating from a permanent home site.

If an apartment complex is contemplated for lots 9 and 10, it would be impossible to visualize or comprehend how it could be compatible with the private dwellings already existing in the area. According to the building code, the buildings on lots 9 and 10 could be as high as 50 feet in height and can embody any architectural design desired by the builder once the property is rezoned to an "R-3" District.

More specifically, if the area were rezoned to an "R-3", a builder could erect any one of the following:

- (1) One-family dwelling.
- (2) Public park or recreation area.
- (3) Church, public or parochial primary or secondary school.
- (4) Home occupation.
- (5) Accessory building and use.
- (6) Two-family dwelling.
- (7) Day nursery, if its location is first approved by the board following a public hearing.

- (8) Multiple-family dwelling.
- (9) Apartment hotel.
- (10) Day nursery, tourist home, lodging home.
- (11) Nursing home or rest home.
- (12) Nonprofit private clubs.
- (13) Mortuary.
- (14) Office or studio, if its location is first approved by the board following a public hearing.

3. SUCH REZONING WOULD CREATE DIFFICULT
AND DANGEROUS TRAFFIC CONDITIONS.

Referring to the streets:

a. Somerset Lane, an east and west street, is paved, has a width of 20 feet from curb to curb and a length of approximately 489 feet. There are two homes on the north side of this street and four on its south side and all have driveways which require backing out onto the street. At the present time, parking occurs on the opposite sides of this street. This street intersects Parnell at a location substantially 295 feet south of the bridge on the north.

b. Oswego extends generally north and south between the St. Joe River and Parnell Avenue, Somerset joins the north end of Oswego with Parnell, and Vance Avenue, also extending east and west, joins the south end of Oswego with Parnell and St. Joe River Drive, the latter of which extends along the river and in front of North Side High School and joins with East State Boulevard at two spaced locations adjacent the east end of the bridge adjacent to the school. The location closest to the bridge constitutes the only south exit or outlet from the Drive and the other location constitutes the sole south inlet to the Drive. These areas and that extending

along in front of the school are highly saturated with traffic and pedestrians, particularly during certain rush periods.

Oswego is an exceptionally long street and, as stated above, has a single inlet-outlet at the north end via Somerset and a single inlet-outlet at the south end via Vance.

Oswego is a dirt road which is occasionally oiled to induce packing of the soil and allay dust. It has a right-a-way of 50 feet but the present usable surface width will average between 12 to 17 feet. There are 16 homes with back-out driveways on the east side and 18 with back-outs on the west and certain of these are located opposite the Spreen property.

At the present time, there are fewer automotive vehicles which are owned or operated by persons living on Oswego, Somerset as described, and Vance than the number of parking spaces in the proposed apartment complex. The north extremity of Oswego is presently in poor condition. Adjacent to the south end there is quite a narrow curve and at times there are many children and teenagers at play in this particular area as well as along Vance Avenue.

c. The length of Vance from Parnell to its medial intersection with St. Joe River Drive is approximately 839 feet

and from Parnell to its intersection with Oswego approximately 420 feet. There are 9 homes with 10 back-out driveways on the south side and 6 homes with 8 back-out driveways on the north side. There is a relatively sharp curve at the first mentioned intersection which is protected by a long curved guard rail to prevent cars from accidentally running off into the river.

The intersection between Vance and Parnell is a dangerous one and during certain weekday periods, the traffic is controlled by a guard to assist and protect school children and other pedestrians in crossing.

d. In any proposed apartment complex for lots 9 and 10, there could be anywhere from 75 to 200 cars owned by the occupants thereof, and this plus the number of business vehicles required for servicing such a complex could most certainly create traffic congestion in the Oswego area, and particularly for those property owners directly opposite thereto.

e. The intersection between Parnell and St. Joe River Drive on the north adjacent the bridge is a very dangerous area. Many accidents have occurred here, as pointed out herebelow, and these would appear to be due to the oblique angular position of the bridge relative to the medial lines of the aforesaid streets, inclement weather, the speed or flow of traffic, the structural

characteristics of the bridge, the incline of the area adjacent the south end of the bridge, and poor visibility upon approaching such area. Three stationary abutments are presently located at the southeast corner of the intersection as a protective measure.

The bridge has a length of 223 feet and a width of 30 feet and the distance from its south end to the center of the intersection between Somerset and Parnell as stated above is approximately 295 feet. There are two homes with driveways on the east side of Parnell directly south of the bridge and there are three homes with driveways on the west side.

As noted above, the total distance along Somerset to any proposed entrance to lot 10 would be in the neighborhood of 600 feet. This total distance might safely accommodate, at one time, somewhere between 16 to 20 cars, assuming that the average length of each is $18\frac{1}{2}$ feet with corresponding distance therebetween but this accommodation would depend on the extent of parking permitted on the opposite sides of the street.

If the Spreen property, consisting of lots 9 and 10, is rezoned; it is logical and reasonable to assume that lot 8 would eventually be rezoned. By the same token, if lots 8, 9, and 10 should

be rezoned for apartments one may further assume that the vacant properties on Oswego and Parnell more or less east of lot 8 would eventually be rezoned for apartment complexes, in which event, the streets named in the preceding paragraph could under no circumstances accommodate the great excess in the number of vehicles utilized in conjunction with such complexes which could contain hundreds of living units.

In the year 1960 a traffic flow chart for our city was published. This chart shows that there was a weekly day average of 5000 vehicles traveling on Parnell. It is probable that this average may now be between 8000 to 1100.

The flow of traffic on Parnell and East State Boulevard presently appears to be excessive, particularly during the rush periods between 6:30 a.m. - 8:30 a.m. and between 4 p.m. - 6 p.m., during special events at the Coliseum and at the front and contiguous areas of North Side High School around 7:45 a.m.

It is becoming progressively more difficult to enter or cross Parnell and East State due to the increasing volume or flow of traffic therein. Permitting the use of anywhere from 131 to possibly 500 additional cars in the Oswego area in conjunction with any proposed apartment complex or complexes should never be

permitted under the present existing Master Plan of the Plan Commission as it would adversely effect the established interests of those property owners who have been induced by an "R-1" restrictive zone to purchase or build and improve their property long prior to the filing of the Spreen Petition.

If, for example, a traffic light was installed at the intersection of Somerset and Parnell, then at times it would be next to impossible for the owners of cars on Parnell between the bridge and Somerset to safely enter Parnell due to backup in traffic. It is quite possible traffic could backup a distance from the intersection to the bridge, for the full length of the bridge, as well as an appreciable distance north thereof. It is believed that a traffic light at such an intersection would seriously interfere and/or interrupt the fast or normal free-flow of traffic on Parnell and also could cause excessive backup of traffic on Somerset. It is quite possible that an additional traffic light would have to be installed at the area adjacent the bridge and obviously any lights in the area would compound the congestion and interrupt the free-flow of traffic which is essential to Parnell. Further, it would probably be necessary to install a traffic light at the intersection of Vance and Parnell which, as stated above, is presently provided with an officer at certain periods to protect the school children and others.

Further, Somerset, Oswego, Vance and the Drive would constitute a bypass off Parnell and promote racing along these street to the exit adjacent North Side High School. This racing now occurs to some extent and pedestrians would be endangered along Somerset and Oswego by any increase in traffic as there are no sidewalks.

Also, all of the property owners along Somerset, Oswego and Vance would be subjected to almost intolerable disturbances with respect to traffic and noise and this would be particularly true of those living adjacent to such a complex.

Accordingly, the remonstrators respectfully submit that any great number of vehicles utilized by occupants of any apartment complex and the servicing thereof, would appreciably increase the density of vehicular traffic and create and/or compound difficult and hazardous traffic conditions including congestion, backups, interference and/or interruptions in the normal flow of traffic on Parnell, Somerset, Oswego, Vance, and St. Joe River Drive and particularly at the two intersections of the latter with East State Boulevard.

Attention is directed to the fact that the capacity of East State Boulevard to accommodate vehicles traveling eastward over the

bridge and north into St. Joe River Drive is very limited, and this is particularly true during rush hours. If, for example, the rezoning of lots 9 and 10 increased the flow of traffic by 25% northward into the St. Joe River Drive of East State Boulevard, it is believed that on some occasions, vehicles would be backed up west to Spy Run, and this would create an intolerable condition in the area directly east of the bridge, not only during business rush hours, but during the periods that the North Side High School is opening and closing.

f. In support of the above, attention is directed to the important fact that twenty-two (22) recorded accidents have occurred at the dangerous intersection of Parnell and St. Joe River Drive for a period beginning with November 5, 1962 and ending on January 13, 1968.

1. November 5, 1962
2. December 20, 1962
3. January 19, 1963
4. June 29, 1963
5. July 16, 1963
6. December 23, 1963
7. February 15, 1964
8. May 19, 1964

9. June 7, 1964
10. February 18, 1964
11. February 26, 1964
12. March 30, 1965
13. May 26, 1965
14. June 2, 1965
15. October 9, 1965
16. December 12, 1965
17. October 1, 1966
18. January 15, 1967
19. May 28, 1967
20. September 11, 1967
21. September 27, 1967
22. January 13, 1968

g. Two recorded accidents have at least occurred at the intersection of Parnell and Somerset:

1. February 6, 1966
2. December 1, 1967

h. Twelve (12) recorded accidents have at least occurred at the intersection of Parnell and Vance Avenue:

1. June 10, 1962
2. January 11, 1963

3. January 24, 1964
4. March 13, 1965
5. March 19, 1965
6. April 1, 1966
7. June 29, 1966
8. November 1, 1966
9. December 15, 1966
10. September 5, 1967
11. September 22, 1967
12. October 15, 1967

i. Thirty-three (33) recorded accidents have at least occurred at the intersection of St. Joe River Drive with East State Boulevard:

1. May 15, 1963
2. September 6, 1963
3. November 21, 1963
4. January 10, 1964
5. January 30, 1964
6. April 28, 1964
7. May 29, 1964
8. June 15, 1964
9. July 6, 1964

10. November 19, 1964
11. November 25, 1964
12. December 22, 1964
13. January 9, 1965
14. February 18, 1965
15. March 10, 1965
16. March 12, 1965
17. September 25, 1965
18. January 28, 1966
19. January 13, 1966
20. March 8, 1966
21. March 10, 1966
22. April 14, 1966
23. May 16, 1966
24. August 18, 1966
25. September 6, 1966
26. September 22, 1966
27. October 14, 1966
28. November 18, 1966
29. March 6, 1967
30. June 8, 1967
31. October 6, 1967
32. December 13, 1967
33. December 18, 1967

4. ANY INCREASE IN POPULATION DENSITY BY AN APARTMENT
COMPLEX WOULD BURDEN SCHOOL FACILITIES.

It is quite possible that the density in the above respect would place a burden on the school facilities and particularly if an apartment complex having an appreciable number of living units and/or any additional apartments were constructed in the Oswego area.

5. NO SEWER EXISTS WHICH IS SUFFICIENT TO ACCOMMODATE
DISPOSAL FROM ANY BUILDING COMPLEX ON LOTS 9 AND 10.

There is no sewer in Oswego Avenue or any of appreciable length between Oswego and the river. It is likely that any sewer necessary to accommodate, for example any apartment complex, would require a larger line and other components as compared to a smaller line adapted to use by single family dwellings.

The remonstrators on the west side of Oswego Avenue have never objected to the installation of a sewer provided it is correctly

installed and would serve the needs of any dwellings erected on lots 9 and 10. Recent rains appear to indicate that some sewers have been improperly installed, and the residents on the west side of Oswego recognize the fact that a sewer, in all probability, will be required in the not too distant future when lots 9 and 10 are developed in accord with the requirements of an "R-1" District.

No Building Permit could ever be issued for such a complex unless a sewer and other facilities specified in the Statute are available.

6. THE COSTS WITH RESPECT TO LAND IMPROVEMENTS IN THE
OSWEGO AREA WOULD BE EXCESSIVE AND DISCRIMINATORY.

If such an apartment complex or any additional ones are constructed, then it is logical to assume that Oswego will require paving, sidewalks, a sanitary sewer, a storm sewer, and in all probability the installation of additional utilities. It would

seem that the paved width of Oswego would also have to be greater than that of Somerset in order to assist in accommodating the increased traffic.

At least some of the above improvements would not be required if the area in question is not rezoned. Also, the cost of such improvements would be almost prohibitive for some of the property owners and necessitate selling their homes.

The owners of such a complex would obtain greater benefits than those of other property owners and the latter would carry a greater burden insofar as costs with respect to construction and assessments.

SUMMARY

The Petitioner has not produced any evidence at this Hearing to justify (1) that there is any need for the Plan to be amended; (2) that the amendment would be in the best interests and benefit to the Oswego area; and (3) that the amendment does not conflict with the overall master city plan. Otherwise expressed, the Petitioner has not met the burden of proof to justify any change in the existing "R-1" District.

Respectfully submitted,

Charles A. Penfold

EXHIBITS

A. EVERETT BLOOM
ALTON L. BLOOM

LOUIS L. BLOOM
ALLAN E. BLOOM
BRUCE E. BLOOM
RICHARD W. GEORGE

BLOOM & BLOOM
ATTORNEYS AT LAW
1514 ANTHONY WAYNE BANK BUILDING
FORT WAYNE, INDIANA 46802
TELEPHONE 742-1463

April 15, 1968

Fort Wayne Plan Commission
425 South Calhoun Street
Fort Wayne, Indiana 46802

ATTENTION; Mr. William Jones

Dear Mr. Jones:

This letter will confirm that the submission of Harold D. Palmer for the meeting scheduled for April 15, 1968 is to be withdrawn and resubmitted for the meeting scheduled in May.

Very truly yours,

BLOOM & BLOOM

Louis L. Bloom
Louis L. Bloom

LLB:kaf

BY-LAWS FOR THE
FORT WAYNE CITY PLAN COMMISSION
OF FORT WAYNE, INDIANA

ARTICLE V

AMENDMENTS

Section 2 Rules of operating procedures and policies of the
Commission:

(3) All requests for continuances or requests that ordinances be taken under advisement shall be filed in writing in the Office of the City Plan Commission by noon on the Wednesday preceding the meeting of the City Plan Commission at which the ordinance is to be considered. If the request for a continuance or for the ordinance to be taken under advisement is filed within the required time, the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at which it was to be considered. Also, in the event, a request is filed for continuance or delay in the consideration of an ordinance, it shall be the obligation of the petitioner to notify the same property owners which the Plan Commissioner had notified by mail that the hearing has been postponed or rescheduled and informing him of the time and place of the next meeting at which the proposed ordinance will be considered. In the event the time and place of the meeting is not known at the time that the request for continuance is filed, it shall be the duty of the petitioner to notify all persons notified by the Plan Commission Office when the time and place of hearing is determined.

Adopted by the Commission, March 25, 1963.

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on March 26, 1968, referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-68-03-14; and,

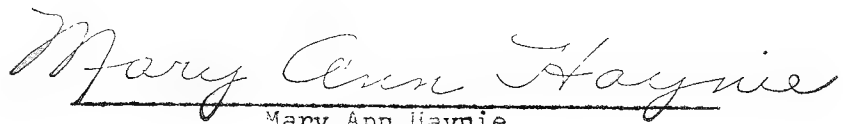
WHEREAS, a letter requesting withdrawal of the proposed ordinance has been filed with the City Council by the petitioner;

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that such proposed ordinance be withdrawn in accordance with the written request of the petitioner;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held April 15, 1968.

Certified and signed this
25th day of April 1968.



Mary Ann Haynie
Secretary

Bill No. Z-68-03-09

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance amending the City of Fort Wayne Zoning Map No. C-14, have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance BE WITHDRAWN.

Phil A. Steigerwald
Celia Ann Fay
Thomas G. Adams
John H. Robinson
Edwin J. Rousseau

Concurred in 5-14-68.

Fuad G. Bonahoom
City Clerk

Bill No. Z-68-03-14

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance amending the City of Fort Wayne Zoning Map No. B-11, have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance BE WITHDRAWN.

Phil A. Steigerwald
Celia Ann Fay
Thomas G. Adams
John H. Robinson
Edwin J. Rousseau

Concurred in 5-14-68.

Fuad G. Bonahoom
City Clerk

Bill No. Z-67-11-22

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance amending the City of Fort Wayne Zoning Map No. K-1, have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance DO PASS.

Phil A. Steigerwald
Celia Ann Fay
Thomas G. Adams
John H. Robinson
Edwin J. Rousseau

Concurred in 5-14-68.

Fuad G. Bonahoom
City Clerk

RESTATEMENT OF POLICY

Because of the many zoning map amendments that are being submitted, the Commission deems it necessary to restate its policy concerning these amendments.

The Plan Commission approached the preparation of the Land Use Plan and the Zoning Ordinance in a positive manner and spent many months in a very thorough detailed analysis of all the factors which go to make up the Plan. During and following the preparation of the Plan, many public hearings and meetings were held in each section of the city and of the fringe area. Many suggestions and requests were received and changes made before the Plan was adopted by the Common Council in its final form.

The Land Use Plan serves as an important basic plan for the development of the community and is an essential guide for the preparation of other plans of the city because the type of land use and the density of population determine the potential demand for city utilities and services.

It is recognized that no plan for a constantly changing city can be rigid or inflexible. Rather it must be kept up-to-date, reviewed periodically and changed from time to time. In considering any proposed change, it is the responsibility of the petitioner to show:

1. The need for the plan to be amended,
2. That the amendment will be in the best interest of and benefit to the area involved and of and to the city,
3. That the amendment will not be detrimental to and does not conflict with the overall city plan.

Approved 12/10/56

SUPPLEMENT TO RESTATEMENT OF POLICY

1. The need for the plan to be amended.
 - (a) Logical extension of an existing district.
 - (b) Need for additional district to serve the area.
 - (c) Changing conditions within the area which make the present land use classification impractical.
2. That the amendment will be in the best interest of and benefit to the area involved and of and to the city.
3. That the amendment will not be detrimental to and does not conflict with the overall city plan.

The Development Plan includes plans for:

- (1) Thoroughfare Plan (traffic)
- (2) Water Transmission and Distribution
- (3) Sewers (storm and sanitary)
- (4) Fire Station Site Plan
- (5) School Site Plan
- (6) Park Site Plan
- (7) Shopping Center Site Plan
- (8) Industrial Site Plan

VILLAGE OF EUCLID, OHIO et al. v. AMBLER REALTY CO.

Supreme Court of the United States, 1926.

272 U. S. 365, 47 S. Ct. 114, 71 L. Ed. 303.

Appeal from the District Court of the United States for the Northern District of Ohio.

MR. JUSTICE SUTHERLAND delivered the opinion of the court.

The village of Euclid is an Ohio municipal corporation. It adjoins and practically is a suburb of the city of Cleveland. Its estimated population is between 5,000 and 10,000, and its area from 12 to 14 square miles, the greater part of which is farm lands or unimproved acreage. It lies, roughly in the form of a parallelogram measuring approximately $3\frac{1}{2}$ miles each way. East and west it is traversed by three principal highways: Euclid avenue, through the southerly border, St. Clair avenue, through the central portion, and Lake Shore boulevard, through the northerly border, in close proximity to the shore of Lake Erie. The Nickel Plate Railroad lies from 1,500 to 1,800 feet north of Euclid avenue, and the Lake Shore Railroad 1,600 feet farther to the north. The three highways and the two railroads are substantially parallel.

Appellee is the owner of a tract of land containing 68 acres, situated in the westerly end of the village, abutting on Euclid avenue to the south and the Nickel Plate Railroad to the north. Adjoining this tract, both on the east and on the west, there have been laid out restricted residential plats upon which residences have been erected.

On November 13, 1922, an ordinance was adopted by the village council establishing a comprehensive zoning plan for regulating and restricting the location of trades, industries, apartment houses, two-family houses, single family houses, etc., the lot area to be built upon, the size and height of buildings, etc.

The entire area of the village is divided by the ordinance into six classes of use districts, denominated U-1 to U-6, inclusive; three classes of height districts, denominated H-1 to H-3, inclusive; and four classes of area districts, denominated A-1 to A-4, inclusive. The use districts are classified in respect of the buildings which may be erected within their respective limits, as follows: U-1 is restricted to single family dwellings, public parks, water towers and reservoirs, suburban and interurban electric railway passenger stations and rights of way, and farming, non-commercial greenhouse nurseries, and truck gardening; U-2 is extended to include two-family dwellings; U-3 is further extended to include apartment houses, hotels, churches, schools, public libraries, museums, private clubs, community center buildings, hospitals, sanitariums, public playgrounds, and recreation buildings, and a city hall and courthouse; U-4 is further extended to include banks, offices, studios, telephone exchanges, fire and police stations, restaurants, theaters and

moving picture shows, retail stores and shops, sales offices, sample rooms, wholesale stores for hardware, drugs, and groceries, stations for gasoline and oil (not exceeding 1,000 gallons storage) and for ice delivery, skating rinks and dance halls, electric substations, job and newspaper printing, public garages for motor vehicles, stables and wagon sheds (not exceeding five horses, wagons or motor trucks), and distributing stations for central store and commercial enterprises; U-5 is further extended to include billboards and advertising signs (if permitted), warehouses, ice and ice cream manufacturing and cold storage plants, bottling works, milk bottling and central distribution stations, laundries, carpet cleaning, dry cleaning, and dyeing establishments, blacksmith, horseshoeing, wagon and motor vehicle repair shops, freight stations, street car barns, stables and wagon sheds (for more than five horses, wagons or motor trucks) and wholesale produce markets and salesrooms; U-6 is further extended to include plants for sewage disposal and for producing gas, garbage and refuse incineration, scrap iron, junk, scrap paper, and rag storage, aviation fields, cemeteries, crematories, penal and correctional institutions, insane and feeble-minded institutions, storage of oil and gasoline (not to exceed 25,000 gallons), and manufacturing and industrial operations of any kind other than, and any public utility not included in, a class U-1, U-2, U-3, U-4, or U-5 use. There is a seventh class of uses which is prohibited altogether.

Class U-1 is the only district in which buildings are restricted to those enumerated. In the other classes the uses are cumulative—that is to say, uses in class U-2 include those enumerated in the preceding class U-1; class U-3 includes uses enumerated in the preceding classes, U-2 and U-1; and so on. In addition to the enumerated uses, the ordinance provides for accessory uses; that is, for uses customarily incident to the principal use, such as private garages. Many regulations are provided in respect of such accessory uses.

The height districts are classified as follows: In Class H-1, buildings are limited to a height of $2\frac{1}{2}$ stories, or 35 feet; in class H-2, to 4 stories, or 50 feet; in class H-3, to 80 feet. To all of these, certain exceptions are made, as in the case of church spires, water tanks, etc.

The classification of area districts is: In A-1 districts, dwellings or apartment houses to accommodate more than one family must have at least 5,000 square feet for interior lots and at least 4,000 square feet for corner lots; in A-2 districts, the area must be at least 2,500 square feet for interior lots, and 2,000 square feet for corner lots; in A-3 districts, the limits are 1,250 and 1,000 square feet, respectively; in A-4 districts, the limits are 900 and 700 square feet, respectively. The ordinance contains, in great variety and detail, provisions in respect of width of lots, front, side, and rear yards, and other matters, including restrictions and regulations as to the use of billboards, signboards, and advertising signs.

A single family dwelling consists of a basement and not less than three rooms and a bathroom. A two-family dwelling consists of a basement and not less than four living rooms and a bathroom for each family, and is further described as a detached dwelling for the occupation of two families, one having its principal living rooms on the first floor and the other on the second floor.

Appellee's tract of land comes under U-2, U-3 and U-6. The first strip of 620 feet immediately north of Euclid avenue falls in class U-2, the next 130 feet to the north, in U-3, and the remainder in U-6. The uses of the first 620 feet, therefore, do not include apartment houses, hotels, churches, schools, or other public and semipublic buildings, or other uses enumerated in respect of U-3 to U-6, inclusive. The uses of the next 130 feet include all of these, but exclude industries, theaters, banks, shops, and the various other uses set forth in respect of U-4 to U-6, inclusive.

Annexed to the ordinance, and made a part of it, is a zone map, showing the location and limits of the various use, height, and area districts, from which it appears that the three classes overlap one another; that is to say, for example, both U-5 and U-6 use districts are in A-4 area districts, but the former is in H-2 and the latter in H-3 height districts. The plan is a complicated one, and can be better understood by an inspection of the map, though it does not seem necessary to reproduce it for present purposes.

The lands lying between the two railroads for the entire length of the village area and extending some distance on either side to the north and south, having an average width of about 1,600 feet, are left open, with slight exceptions, for industrial and all other uses. This includes the larger part of appellee's tract. Approximately one-sixth of the area of the entire village is included in U-5 and U-6 use districts. That part of the village lying south of Euclid avenue is principally in U-1 districts. The lands lying north of Euclid avenue and bordering on the long strip just described are included in U-1, U-2, U-3, and U-4 districts, principally in U-2.

The enforcement of the ordinance is intrusted to the inspector of buildings, under rules and regulations of the board of zoning appeals. Meetings of the board are public, and minutes of its proceedings are kept. It is authorized to adopt rules and regulations to carry into effect provisions of the ordinance. Decisions of the inspector of buildings may be appealed to the board by any person claiming to be adversely affected by any such decision. The board is given power in specific cases of practical difficulty or unnecessary hardship to interpret the ordinances in harmony with its general purpose and intent, so that the public health, safety and general welfare may be secure and substantial justice done. Penalties are prescribed for violations, and it is

provided that the various provisions are to be regarded as independent and the holding of any provision to be unconstitutional, void or ineffective shall not affect any of the others.

The ordinance is assailed on the grounds that it is in derogation of section 1 of the Fourteenth Amendment to the federal Constitution in that it deprives appellee of liberty and property without due process of law and denies it the equal protection of the law, and that it offends against certain provisions of the Constitution of the state of Ohio. The prayer of the bill is for an injunction restraining the enforcement of the ordinance and all attempts to impose or maintain as the appellee's property any of the restrictions, limitations or conditions. The court below held the ordinance to be unconstitutional and void, and enjoined its enforcement, 297 F. 307.

Before proceeding to a consideration of the case, it is necessary to determine the scope of the inquiry. The bill alleges that the tract of land in question is vacant and has been held for years for the purpose of selling and developing it for industrial uses, for which it is especially adapted, being immediately in the path of progressive industrial development; that for such uses it has a market value of about \$10,000 per acre, but if the use be limited to residential purposes the market value is not in excess of \$2,500 per acre; that the first 200 feet of the parcel back from Euclid avenue, if unrestricted in respect of use, has a value of \$150 per front foot, but if limited to residential uses, and ordinary mercantile business be excluded therefrom, its value is not in excess of \$50 per front foot.

It is specifically averred that the ordinance attempts to restrict and control the lawful uses of appellee's land, so as to confiscate and destroy a great part of its value; that it is being enforced in accordance with its terms; that prospective buyers of land for industrial, commercial, and residential uses in the metropolitan district of Cleveland are deterred from buying any part of this land because of the existence of the ordinance and the necessity thereby entailed of conducting burdensome and expensive litigation in order to vindicate the right to use the land for lawful and legitimate purposes; that the ordinance constitutes a cloud upon the land, reduces and destroys its value, and has the effect of diverting the normal industrial, commercial, and residential development thereof to other and less favorable locations.

The record goes no farther than to show, as the lower court found, that the normal and reasonably to be expected use and development of that part of appellee's land adjoining Euclid avenue is for general trade and commercial purposes, particularly retail stores and like establishments, and that the normal and reasonably to be expected use and development of the residue of the land is for industrial and trade purposes. Whatever injury is inflicted by the mere existence and threatened

enforcement of the ordinance is due to restrictions in respect of these and similar uses, to which perhaps should be added—if not included in the foregoing—restrictions in respect of apartment houses. . . .

We proceed, then, to a consideration of those provisions of the ordinance to which the case as it is made relates, first disposing of a preliminary matter.

A motion was made in the court below to dismiss the bill on the ground that, because complainant (appellee) had made no effort to obtain a building permit or apply to the zoning board of appeals for relief, as it might have done under the terms of the ordinance, the suit was premature. The motion was properly overruled, the effect of the allegations of the bill is that the ordinance of its own force operates greatly to reduce the value of appellee's lands and destroy their marketability for industrial, commercial and residential uses, and the attack is directed, not against any specific provision or provisions, but against the ordinance as an entirety. Assuming the premises, the existence and maintenance of the ordinance in effect constitutes a present invasion of appellee's property rights and a threat to continue it. Under these circumstances the equitable jurisdiction is clear. See *Terrace v. Thompson*, 263 U. S. 197, 215, 44 S. Ct. 15, 68 L. Ed. 255; *Pierce v. Society of Sisters*, 268 U. S. 510, 535, 45 S. Ct. 571, 69 L. Ed. 1070, 39 A. L. R. 468.

It is not necessary to set forth the provisions of the Ohio Constitution which are thought to be infringed. The question is the same under both Constitutions, namely, as stated by appellee: Is the ordinance invalid, in that it violates the constitutional protection "to the right of property in the appellee by attempted regulations under the guise of the police power, which are unreasonable and confiscatory"?

Building zone laws are of modern origin. They began in this country about 25 years ago. Until recent years, urban life was comparatively simple; but, with the great increase and concentration of population, problems have developed, and constantly are developing, which require, and will continue to require, additional restrictions in respect of the use and occupation of private lands in urban communities. Regulations, the wisdom, necessity, and validity of which, as applied to existing conditions, are so apparent that they are now uniformly sustained, a century ago, or even a half century ago, probably would have been rejected as arbitrary and oppressive. Such regulations are sustained, under the complex conditions of our day, for reasons analogous to those which justify traffic regulations, which, before the advent of automobiles and rapid transit street railways, would have been condemned as fatally arbitrary and unreasonable. And in this there is no inconsistency, for, while the meaning of constitutional guaranties never varies, the scope of their application must expand or contract to meet the new and different conditions which are constantly coming within the field of their

operation. In a changing world it is impossible that it should be otherwise. But although a degree of elasticity is thus imparted, not to the *meaning*, but to the *application* of constitutional principles, statutes and ordinances, which, after giving due weight to the new conditions, are found clearly not to conform to the Constitution, of course, must fall.

The ordinance now under review, and all similar laws and regulations, must find their justification in some aspect of the police power, asserted for the public welfare. The line which in this field separates the legitimate from the illegitimate assumption of power is not capable of precise delimitation. It varies with circumstances and conditions. A regulatory zoning ordinance, which would be clearly valid as applied to the great cities, might be clearly invalid as applied to rural communities. In solving doubts, the maxim "*sic utere tuo ut alienum non laedas*," which lies at the foundation of so much of the common law of nuisances, ordinarily will furnish a fairly helpful clew. And the law of nuisances, likewise, may be consulted, not for the purpose of controlling, but for the helpful aid of its analogies in the process of ascertaining the scope of, the power. Thus the question whether the power exists to forbid the erection of a building of a particular kind or for a particular use, like the question whether a particular thing is a nuisance, is to be determined, not by an abstract consideration of the building or of the thing considered apart, but by considering it in connection with the circumstances and the locality. *Sturgis v. Bridgeman*, L. R. 11 Ch. 852, 865. A nuisance may be merely a right thing in the wrong place, like a pig in the parlor instead of the barnyard. If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control. *Radice v. New York*, 264 U. S. 292, 294, 44 S. Ct. 325, 68 L. Ed. 690.

There is no serious difference of opinion in respect of the validity of laws and regulations fixing the height of buildings within reasonable limits, the character of materials and methods of construction, and the adjoining area which must be left open, in order to minimize the danger of fire or collapse, the evils of overcrowding and the like, and excluding from residential sections offensive trades, industries and structures likely to create nuisances. See *Welch v. Swasey*, 214 U. S. 91, 29 S. Ct. 567, 53 L. Ed. 923; *Hadacheck v. Los Angeles*, 239 U. S. 394, 36 S. Ct. 143, 60 L. Ed. 348, Ann. Cas. 1917B, 927; *Reinman v. Little Rock*, 237 U. S. 171, 35 S. Ct. 511, 59 L. Ed. 900; *Cusack Co. v. City of Chicago*, 242 U. S. 526, 529, 530, 37 S. Ct. 190, 61 L. Ed. 472, L. R. A. 1918A, 136, Ann. Cas. 1917C, 594.

Here, however, the exclusion is in general terms of all industrial establishments, and it may thereby happen that not only offensive or dangerous industries will be excluded, but those which are neither offensive nor dangerous will share the same fate. But this is no more than hap-

ens in respect of many practice-forbidding laws which this court has upheld, although drawn in general terms so as to include individual cases that may turn out to be innocuous in themselves. *Hebe Co. v. Shaw*, 248 U. S. 297, 303, 39 S. Ct. 125, 63 L. Ed. 255; *Pierce Oil Corp. v. City of Hope*, 248 U. S. 498, 500, 39 S. Ct. 172, 63 L. Ed. 381. The inclusion of a reasonable margin, to insure effective enforcement, will not put upon a law, otherwise valid, the stamp of invalidity. Such laws may also find their justification in the fact that, in some fields, the bad fades into the good by such insensible degrees that the two are not capable of being readily distinguished and separated in terms of legislation. In the light of these considerations, we are not prepared to say that the end in view was not sufficient to justify the general rule of the ordinance, although some industries of an innocent character might fall within the proscribed class. It cannot be said that the ordinance in this respect "passes the bounds of reason and assumes the character of a merely arbitrary fiat." *Purity Extract Co. v. Lynch*, 226 U. S. 192, 204, 33 S. Ct. 44, 47 (57 L. Ed. 184). Moreover, the restrictive provisions of the ordinance in this particular may be sustained upon the principles applicable to the broader exclusion from residential districts of all business and trade structures, presently to be discussed.

It is said that the village of Euclid is a mere suburb of the city of Cleveland; that the industrial development of that city has now reached and in some degree extended into the village, and in the obvious course of things will soon absorb the entire area for industrial enterprises; that the effect of the ordinance is to divert this natural development elsewhere, with the consequent loss of increased values to the owners of the lands within the village borders. . . .

The serious question in the case arises over the provisions of the ordinance excluding from residential districts apartment houses, business houses, retail stores and shops, and other like establishments. This question involves the validity of what is really the crux of the more recent zoning legislation, namely, the creation and maintenance of residential districts, from which business and trade of every sort, including hotels and apartment houses, are excluded. Upon that question this court has not thus far spoken. The decisions of the state courts are numerous and conflicting; but those which broadly sustain the power greatly outnumber those which deny it altogether or narrowly limit it, and it is very apparent that there is a constantly increasing tendency in the direction of the broader view. We shall not attempt to review these decisions at length, but content ourselves with citing a few as illustrative of all.

As sustaining a broader view, see *Opinion of the Justices*, 234 Mass. 597, 607, 127 N. E. 525; *Inspector of Buildings of Lowell v. Stoklosa*, 250 Mass. 52, 145 N. E. 262; *Spector v. Building Inspector of Milton*, 250 Mass. 63, 145 N. E. 265; *Brett v. Building Commissioner of Brock-*

line, 250 Mass. 73, 145 N. E. 269; *State v. City of New Orleans*, 154 La. 271, 282, 97 So. 440, 33 A. L. R. 260; *Lincoln Trust Co. v. William Bldg. Corp.*, 229 N. Y. 313, 128 N. E. 209; *City of Aurora v. Burns*, 319 Ill. 84, 93, 149 N. E. 784; *Deynzer v. City of Evanston*, 319 Ill. 226, 149 N. E. 790; *State ex rel. v. Houghton*, 164 Minn. 146, 204 N. W. 569; *State ex rel. Carter v. Harper*, 182 Wis. 148, 157-161, 196 N. W. 451, 33 A. L. R. 269; *Ware v. City of Wichita*, 113 Kan. 153, 214 P. 99; *Miller v. Board of Public Works*, 195 Cal. 477, 486-495, 234 P. 381, 38 A. L. R. 1479; *City of Providence v. Stephens (R. I.)* 133 A. 614.

For the contrary view, see *Goldman v. Crowther*, 147 Md. 282, 128 A. 50, 38 A. L. R. 1455; *Ignaciunas v. Risley*, 98 N. J. Law, 712, 121 A. 783; *Spann v. City of Dallas*, 111 Tex. 350, 235 S. W. 513, 19 A. L. R. 1387.

As evidence of the decided trend toward the broader view, it is significant that in some instances the state courts in later decisions have reversed their former decisions holding the other way. For example, compare *State ex rel. v. Houghton*, supra, sustaining the power, with *State ex rel. Lachtman v. Houghton*, 134 Minn. 226, 158 N. W. 1017, L. R. A. 1917F, 1050, *State ex rel. Roerig v. City of Minneapolis*, 136 Minn. 479, 162 N. W. 477, and *Vorlander v. Hokenson*, 145 Minn. 484, 175 N. W. 995, denying it, all of which are disapproved in the *Houghton Case* (page 151 [204 N. W. 569]) last decided.

The decisions enumerated in the first group cited above agree that the exclusion of buildings devoted to business, trade, etc. from residential districts, bears a rational relation to the health and safety of the community. Some of the grounds for this conclusion are promotion of the health and security from injury of children and others by separating dwelling houses from territory devoted to trade and industry; suppression and prevention of disorder; facilitating the extinguishment of fires, and the enforcement of street traffic regulations and other general welfare ordinances; aiding the health and safety of the community, by excluding from residential areas the confusion and danger of fire, contagion, and disorder, which in greater or less degree attach to the location of stores, shops, and factories. Another ground is that the construction and repair of streets may be rendered easier and less expensive, by confining the greater part of the heavy traffic to the streets where business is carried on.

The matter of zoning has received much attention at the hands of commissions and experts, and the results of their investigations have been set forth in comprehensive reports. These reports, which bear every evidence of painstaking consideration, concur in the view that the segregation of residential, business and industrial buildings will make it easier to provide fire apparatus suitable for the character and intensity of the development in each section; that it will increase the safety and security of home life, greatly tend to prevent street accidents, especially

children, by reducing the traffic and resulting confusion in residential sections, decrease noise and other conditions which produce or intensify nervous disorders, preserve a more favorable environment in which to rear children, etc. With particular reference to apartment houses, it is pointed out that the development of detached house sections is greatly retarded by the coming of apartment houses, which has sometimes resulted in destroying the entire section for private house purposes; that in such sections very often the apartment house is a mere parasite, constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district. Moreover, the coming of one apartment house is followed by others, interfering by their height and bulk with the free circulation of air and monopolizing the rays of the sun which otherwise would fall upon the smaller homes, and bringing, as their necessary accompaniments, the disturbing noises incident to increased traffic and business, and the occupation, by means of moving and parked automobiles, of larger portions of the streets, thus detracting from their safety and depriving children of the privilege of quiet and open spaces for play, enjoyed by those in more favored localities—until, finally, the residential character of the neighborhood and its desirability as a place of detached residences are utterly destroyed. Under these circumstances, apartment houses, which in a different environment would be not only entirely unobjectionable but highly desirable, come very near to being nuisances.

If these reasons, thus summarized, do not demonstrate the wisdom or sound policy in all respects of those restrictions which we have indicated as pertinent to the inquiry, at least, the reasons are sufficiently cogent to preclude us from saying, as it must be said before the ordinance can be declared unconstitutional, that such provisions are clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare. *Cusack Co. v. City of Chicago*, supra, pages 530-531 (37 S. Ct. 190); *Jacobson v. Massachusetts*, 197 U. S. 11, 30-31, 25 S. Ct. 358, 49 L. Ed. 643, 3 Ann. Cas. 765.

It is not until, when, if ever, the provisions set forth in the ordinance in tedious and minute detail, come to be concretely applied to particular premises, and those of the appellee, or to particular conditions, or to be considered in connection with specific complaints, some of them, or even many of them, may be found to be clearly arbitrary and unreasonable. But where the equitable remedy of injunction is sought, as it is here, not upon the ground of a present infringement or denial of a specific right, or of a particular injury in process of actual execution, but upon the broad ground that the mere existence and threatened enforcement of the ordinance, by materially and adversely affecting values and curtailing the opportunities of the market, constitute a present and irreparable injury, the court will not scrutinize its provisions, sentence

by sentence, to ascertain by a process of piecemeal dissection whether there may be, here and there, provisions of a minor character, or relating to matters of administration, or not shown to contribute to the injury complained of, which, if attacked separately, might not withstand the test of constitutionality. In respect of such provisions, of which specific complaint is not made, it cannot be said that the landowner has suffered or is threatened with an injury which entitles him to challenge their constitutionality. *Turpin v. Lemon*, 187 U. S. 51, 60, 23 S. Ct. 20, 47 L. Ed. 70. In *Railroad Commission Cases*, 116 U. S. 307, 335-337, 6 S. Ct. 334, 388, 1191, 29 L. Ed. 636, this court dealt with an analogous situation. There an act of the Mississippi Legislature, regulating freight and passenger rates on intrastate railroads and creating a supervisory commission, was attacked as unconstitutional. The suit was brought to enjoin the commission from enforcing against the plaintiff railroad company any of its provisions. In an opinion delivered by Chief Justice Waite, this court held that the chief purpose of the statute was to fix a maximum of charges and to regulate in some matters of a police nature the use of railroads in the state. After sustaining the constitutionality of the statute "in its general scope" this court said:

"Whether in some of its details the statute may be defective or invalid we do not deem it necessary to inquire, for this suit is brought to prevent the commissioners from giving it any effect whatever as against this company."

Quoting with approval from the opinion of the Supreme Court of Mississippi, it was further said:

"Many questions may arise under it not necessary to be disposed of now, and we leave them for consideration when presented."

And finally:

"When the commission has acted and proceedings are had to enforce what it has done, questions may arise as to the validity of some of the various provisions which will be worthy of consideration, but we are unable to say that, as a whole, the statute is invalid."

The relief sought here is of the same character, namely, an injunction against the enforcement of any of the restrictions, limitations, or conditions of the ordinance. And the gravamen of the complaint is that a portion of the land of the appellee cannot be sold for certain enumerated uses because of the general and broad restraints of the ordinance. What would be the effect of a restraint imposed by one or more of the innumerable provisions of the ordinance, considered apart, upon the value or marketability of the lands, is neither disclosed by the bill nor by the evidence, and we are afforded no basis, apart from mere speculation, upon which to rest a conclusion that it or they would have any appreciable effect upon those matters. Under these circumstances, therefore, it is enough for us to determine, as we do, that the ordinance in its

general scope and dominant features, so far as its provisions are here involved, is a valid exercise of authority, leaving other provisions to be dealt with as cases arise directly involving them.

And this is in accordance with the traditional policy of this court. In the realm of constitutional law, especially, this court has perceived the embarrassment which is likely to result from an attempt to formulate rules or decide questions beyond the necessities of the immediate issue. It has preferred to follow the method of a gradual approach to the general by a systematically guarded application and extension of constitutional principles to particular cases as they arise, rather than by out of hand attempts to establish general rules to which future cases must be fitted. This process applies with peculiar force to the solution of questions arising under the due process clause of the Constitution as applied to the exercise of the flexible powers of police, with which we are here concerned.

Decree reversed.

MR. JUSTICE VAN DEVANTER, MR. JUSTICE McREYNOLDS, and MR. JUSTICE BUTLER dissent.

NOTE.—Accord: *Zahn v. Board of Public Works*, 274 U. S. 325, 47 S. Ct. 594, 71 L. Ed. 1974 (1927). So a municipal ordinance may require lot owners when constructing new buildings to set them back a reasonable distance from the street, *Gorieb v. Fox*, 274 U. S. 603, 47 S. Ct. 675, 71 L. Ed. 1228 (1927). But a zoning ordinance which places a particular tract of land in a residence district and excludes it from being used for other purposes, is void as to such land, if it clearly appears that the health, safety, convenience or general welfare of the part of the city affected will not be promoted thereby, *Nectow v. Cambridge*, 277 U. S. 183, 48 S. Ct. 447, 72 L. Ed. 842 (1928). Likewise, an ordinance making the consent of two-thirds of the property owners in a certain district a condition precedent to the erection therein of a certain type of building, is void, *Eubank v. Richmond*, 226 U. S. 137, 33 S. Ct. 76, 57 L. Ed. 156 (1912); *Seattle Trust Co. v. Roberge*, 278 U. S. 116, 49 S. Ct. 50, 73 L. Ed. 210 (1928). See also *N. F. Baker, Constitutionality of Zoning Laws*, 20 Ill. L. Rev. 213; *E. McQuillen, Constitutional Validity of Zoning Under the Police Power*, 11 St. Louis L. Rev. 76.

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (Lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

<u>Charles Duff</u>	<u>3217 Oswego Ave</u>
<u>Mrs. Charles Duff</u>	<u>3217 Oswego Ave</u>
<u>David D. Tulkerson</u>	<u>3215 Oswego Ave</u>
<u>Mrs. Tamer Tulkerson</u>	<u>3215 Oswego Ave</u>
<u>Mrs. Stephen Earl</u>	<u>3210 Oswego Ave</u>
<u>Stephen M. Earl</u>	<u>3210 Oswego Ave</u>
<u>Bertha V. Jones</u>	<u>3202 Oswego Ave</u>
<u>Maie Morris</u>	<u>3202 Oswego Ave</u>
<u>Mrs. Henry Walker</u>	<u>3163 Oswego Ave</u>
<u>Henry Walker</u>	<u>3163 Oswego Ave</u>
<u>Mrs. Bartaway</u>	<u>3160 Oswego Ave</u>
<u>Carl W. Bartaway</u>	<u>3160 Oswego Ave</u>
<u>Edward G. Gessner</u>	<u>3151 Oswego Ave</u>
<u>Bernice H. Hein</u>	<u>3143 Oswego Ave</u>
<u>Glen E. Essex</u>	<u>3144 Oswego Ave</u>
<u>Lillian J. Essex</u>	<u>3144 Oswego Ave</u>
<u>Hulda E. Pooley</u>	<u>3137 Oswego Ave</u>
<u>Clark D. Derbyshire</u>	<u>3120 Oswego Ave</u>
<u>Elizabeth Derbyshire</u>	<u>3120 Oswego Ave</u>
<u>Earl Furniss</u>	<u>3107 Oswego Ave</u>
<u>Erma Furniss</u>	<u>3107 Oswego Ave</u>
<u>Mrs. Robert J. Dillman</u>	<u>3185 Oswego Ave</u>
<u>Robert J. Dillman</u>	<u>3185 Oswego Ave</u>

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (Lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

James E. Clark

Jane B. Gessner

Mrs. Clare Katzenmaier

Mr. Care H. Katzenmaier

Wm. G. L. Linger

Emma Grenenbach

Mrs. Doreen G. Schmidt

Robert W. Schmidt

Gertrude De Witt

Suma: 10000

Frank Vorich is

Armillaria Vozich.

Quida Alford

Clarence Alford

Jens - & Albin Stein

~~Private & confidential~~

3.57 Answer

3118 Aswego

3118 Oswego Ave.

3102 *O. sulcata*

3232 Oswego

3241 Oswego

3241 *Quercus*

3319 *O. picea*

3330. *Quercus*

3344 Oswego

3344 Oswego

3156 Oswego

3156 oswego

3125 Oswego

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Arthur Mactung	922 Ferguson
Dorothy Mactung	922 Ferguson
Robert Wallentin	909 Ferguson
Mrs. Robert Wallentin	909 Ferguson
William M. Scher	1003 Ferguson Ave.
Lillian Scher	1003 Ferguson Ave.
L. P. S. S. S. S.	921 Ferguson "
W. H. S. S. S.	" "
Gene Zumbach	1010 Ferguson
H. Gilbert Zumbach	" "
Chris J. Lattin	1025 Ferguson Ave.
Sam J. S.	1037 Ferguson Ave.
M. J. S.	" "
L. S. S.	" "
Vivian Reine	" "
J. J. S.	1103 Ferguson Ave.
Mrs. James Macquie	" " "
Mrs. Betty La Choe	1107 " "
Mrs. William Freimuth	1124 Ferguson Ave.
Mrs. William Freimuth	1124 Ferguson Ave.
Donald Hill	1203 Ferguson Ave.
Mrs. Donald Hill	1203 Ferguson Ave.

PROPERTY OWNERSADDRESSES

Remonstrance
 vs
 SPREEN Petition

The undersigned owners of property hereby respectfully submit that the petition of Lourse C. Sreen recently filed for the purpose of rezoning her property (lot 9 & 10) located exclusively in a relatively large R1 district or area to an R3 district or area should be denied.

Mrs & Mrs Wm. A. Fitzgerald	1309 Somerset Lane
Mr & Mrs W. L. Uebelacker	1301 Somerset Lane
Mr & Mrs Fred Beck	1235 Somerset St
Mr & Mrs O. A. Fiebig	1217 Somerset Ln.
Mr. Mr. N. L. Eitel	1233 Somerset Ln.
Mr & Mrs Eugene L. Tigger	1213 Somerset Lane
Mrs Mrs Dale Lucas	1220 Somerset Lane
Mrs Anna Wilhelm	1201 Somerset Lane
Mr & Mrs Mild E. McManis	1145 Somerset Lane
Mr & Mrs J. R. Hannon Jr	1135 Somerset Lane
B. W. Kephart	1133 Somerset Lane
Mrs & Mrs Carlton W. Peters	1121 Somerset Lane
Mrs Dorothy L. Andrew	1321 Somerset Lane
Alon E. Andrew	1321 Somerset Lane
Mrs. Edna B. Bolen	1321 Somerset Lane

1229
 1205
 1119

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Edward M. St John

3028 St. Joe River Dr

Betty J. St John

3028 St. Joe River Dr.

Edith M. Rosenbaum

620 Vance Ave

Esther Rosenbaum

620 Vance Ave

Floyd M. Singer

626 Vance Ave

Bretta J. Singer

626 Vance Ave.

Ruth E. Mahlan

632 Vance Ave.

Jack R. Mahlan

632 Vance Ave.

Truman B. Billings

720 Vance Ave

Thomas E. Hobson

630 Vance Ave

Sandra K. Hobson

630 Vance Ave.

M. P. Gittle

3101 St Joe River Dr.

Dorothy Gittle

3101 St Joe River Dr.

James A. Pickett

625 Glasgow

Mary Jo Pickett

625 Glasgow

Morrie White

612 Vance Ave

Wanda White

612 Vance Ave.

Judith Ayers

714 Glasgow Ave

Robert Ayers

"

Patricia Burtette

714 Vance Ave

Thomas Burtette

714 Vance Ave

Ray York

718 Vance Ave.

Doris Burton

2930 St Joe River Dr

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Elmer G. Barton

2930 St Joe River Rd

REMONSTRANCE
VS
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Mrs. Carl D. Mc Nutt	611 Vance Ave
Carl D. Mc Nutt	611 Vance Ave
Mrs. Graydon Jerome	819 Vance Ave.
Graydon Jerome	819 Vance Ave.
Mrs. James Haegs	925 Vance Ave
James Haegs	925 Vance Ave
Mrs. Edward Matter	928 Vance Ave
Mr. Edward Matter	928 Vance Ave
Mr. Lloyd Gibson	924 Vance Ave
Mrs. Lloyd Gibson	924 Vance Ave
Mrs. Gene Burger	824 Vance Ave.
Mr. Gene Burger	824 Vance Ave
Mrs. Frank Firskrine	1026 Vance Ave
Mrs. Mrs. John Keester	1032 Vance Ave.
Mr. Glen Sims	1050 Vance
Mr. Evelyn Sims	1050 Vance
Mrs. Cheryl Cruse	1321 Vance
Mr. Ronald Cruse	1321 Vance
Mr. & Mrs. A. Kunkel	1309 Vance
Esther Legtmeyer	1307 Vance Ave
Mrs. Jerry Thomas	818 Vance Ave
Mr. Jerry Thomas	818 Vance Ave.
Lakman A. Reed	923 Vance Ave.

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Gladys L. Reed	923 Vance Ave
Valerie Miller	920 Vance Ave
Richard Kewell	1018 Vance Ave.
Jack D. Patten	1028 Vance Ave
Barbara Patten	1028 Vance Ave
Mario Hall	1301 Vance Ave
Albert Hall	1301 Vance Ave
MacArthur Goldsmith	1239 Vance Ave
Robt. Goldsmith	1239 Vance Ave
Arndora Knipper	1215 Vance
Esther Schwarz	1203 Vance Ave
Virgil Schwarz	1203 Vance Ave
Darwin J. Knipper	1215 Vance
Wanda M. Shaffer	1129 Vance Ave
Robert E. Shaffer	1129 Vance Ave
Arnold J. Stump	1123 Vance
Florence A. Stump	1123 Vance
Kathryn E. Carpenter	1117 Vance
Jack K. Carpenter	1117 Vance
Daniel A. Doady	1101 Vance Ave
Rhettis A. Lauer	1110 Vance Ave
Albert V. Lauer	1110 Vance Ave
Bonnie M. Kever	1114 Vance Ave

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (Lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Eustace J. Kever	1114 Vance Ave.
Mr. Richard D. Longard	1118 VANCE Ave
Mrs. Jane Longard	1118 VANCE Ave
Mrs. Robert Brennan	1038 Vance Ave.
Mr. David Lee James	1125 Vance Ave.
Mrs. David James	1125 Vance Ave.
Mr. Herman Schneide	1208 Vance
Mrs. Herman Schneide	1208 Vance
Mrs. Catherine M. Hartman	1216 Vance ave
Mrs. Lura M. Sorenson	1224 Vance ave
Mr. & Mrs. Willis Herndon	1318 Vance Ave.
Mrs. Sylvia L. Hyman	1322 Vance Ave
Mr. Beth Hyman	1322 Vance Ave

PROPERTY OWNERS

ADDRESSES

Gail E. Wood

Harold M. Lickey.

Jerome Woodward

Thomas L. Bell

Roger Miller

Salvatore J. DiMilla

Thomas R. Wade

Paul Schen

Richard C. Coleman

Paul W. Goldsmith

H. K. Arnold

R. C. Schroeder

PL Bracht

F. O. Skene

G. E. Katzenmaier

Wirt Farmer

Kenneth Gehring

W3 Lape

Lane M. Miller

Sahel Toure

Cheryl R Peirce

Alice T. Brockett

Ronald D. Ramsey

464 Stadium Dr. Jk Wayne

1101 Charlotte Ave.

1618 W. Anthony

1601 Fildes

1227 Clara, Ft. Wayne Ind.

1121 Charlotte, Ex. Wayne, Ind.

2032 Kenwood Ave. 71. Wayne

3703 Lower Drive Ft. Wayne

3353 Vance Ave Ft Wayne

4210 Rox Ten Lane

4220 Vance Ave

2109 Vance Ave.

4220 Highwood Ln

1816 N. ANTHONY CITY

1152 Somerset Lane

2026 Bayview Ave.

3130 River Road

3751 Fernside Dr. Ft Wayne

2508 Bolton Dr.

2119 Vance Ave.

1916 Kentucky Ave.

25-20 Eade Ave

3827 Nevada Ave.

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (Lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Mrs. Florine Dietel	1014 Somerset Lane
John C. Dietel	1014 Somerset Ln.
Mr. Victor M. Kamrath	3203 Parnell Ave.
Mrs. Esther Kamprecht	3203 Parnell Ave.
Mr. & Mrs. O. C. Koppert	3215 Parnell Ave.
Mr. & Mrs. Geo. P. Ripple	3225 Parnell Ave.
Mr. & Mrs. Robert L. Baebress	3233 Parnell Avenue
Mr. & Mrs. Alfons Beltran	3243 Parnell Ave.
Mr. & Mrs. Paul Lang	3254 Parnell Ave.
B. G. Rhoads	3236 " "
Mr. & Mrs. Leslie Emerson	3206 Parnell Ave.
Mr. & Mrs. Phil Marsa	3214 Parnell
Mr. & Mrs. Allen Dickinson	3230 Parnell Ave.
Mr. & Mrs. Harley M. Hod	3303 Parnell Ave.

REMONSTRANCE
VS
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (Lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

<u>B. J. Went</u>	<u>3164 Parnell</u>
<u>John A. Went</u>	<u>3164 Parnell</u>
<u>Pauline B. Price</u>	<u>3130 Parnell</u>
<u>Annella V. Price</u>	<u>3130 Parnell</u>
<u>Mr. and Mrs. E. B. Albring</u>	<u>3131 Parnell Ave.</u>
<u>Alberta L. Papp</u>	<u>3148 Parnell Ave.</u>
<u>Mr. & Mrs. M. L. Tagmeyer</u>	<u>3157 Parnell Ave.</u>
<u>Mr. and Mrs. A. Eldridge</u>	<u>3159 Parnell Ave.</u>
<u>Mr. & Mrs. Lyndon Gundersen</u>	<u>3141 Parnell Ave.</u>
<u>Mr. & Mrs. Lester W. Outlick</u>	<u>3334 Parnell Ave.</u>
<u>Mr. & Mrs. L. H. Stoltz</u>	<u>3201 Parnell Ave.</u>
<u>Mr. H. Stoltz</u>	<u>3201 Parnell Ave.</u>
<u>Mr. & Mrs. Lawrence Reedy</u>	<u>3135 Parnell Ave.</u>
<u>Mr. & Mrs. L. H. Stoltz</u>	<u>3115 Parnell Ave.</u>
<u>Miss B. J. Papp</u>	<u>3102 Parnell Ave.</u>
<u>Miss Dora Schmidt</u>	<u>3102 Parnell Ave.</u>
<u>Al Schmidt</u>	<u>3122 Parnell Ave.</u>
<u>Bulmar Papp</u>	<u>3108 Parnell</u>

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (Lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

William F. DeLoach	1036 Northlawn
W. C. Kock	3328 Oswego
Glenn Weber	1036 Northlawn
Mr. & Mrs. Gerald Bright	1034 Northlawn
H. D. & Mildred Baptes	1108 Northlawn
Joe Edwards	1128 Northlawn
R. L. Jarr	1130 Nauland Dr.
Mr. & Mrs. J. Byrnes	1216 Northlawn Dr.
Rolph H. Sisco	1226 Northlawn
Raymond E. Arens	1227 Northlawn
Mr. & Mrs. J. J. Allen	
Mr. J. J. Cleveland	1213 Northlawn
Mrs. L. J. Voss of	1211 Northlawn Dr.
Guy R. Thompson	1209 Northlawn Dr.
C. N. J. J. J.	1115 Northlawn Dr.
Elmer D. Parker	1121 Northlawn Dr.
Eugene J. Luecke	1107 Northlawn Dr.
Mrs. Sue Lussner	1105 Northlawn Dr.
Mr. & Mrs. E. C. P. J. J.	1037 Northlawn
Carl D. Arnett	1020 Somerset Lane
Golden E. Dibble	2015 Vance Ave
Mrs. Dorothy Arnett	1020 Somerset
Mrs. Clara Dibble	2015 Vance

REMONSTRANCE
VS
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

James J. [unclear]	1211 Ferguson Ave
Donna [unclear]	1211 Ferguson Ave
Allen D. Austin	1219 Ferguson St.
Shirley R. Austin	1219 Ferguson St.
Leslie W. Hanks	1221 Ferguson St.
Linda J. Hanks	1221 Ferguson St.
Connie Robbins	1229 Ferguson
Donald Robbins	1229 Ferguson
Paul Brockhall	1233 Ferguson
Charles Brockhall	1233 Ferguson
Margaret Pattison	1303 Ferguson
John Pattison	1303 Ferguson
Wilma Plinke	1302 Ferguson
Jack E. Plinke	1302 Ferguson
Gregory [unclear]	1228 Ferguson
Leota Lorenz	1228 Ferguson
Verlet G. Robbins	1324 Ferguson
Arnold E. Robbins	1224 Ferguson
Carlotta J. Bush	1222 Ferguson
Jimmy C. Bush	1222 Ferguson
Mr & Mrs. Donald	1218 Ferguson
Mrs. Mrs. Michael R. Hiers	1214 Ferguson
Mr & Mrs. Paul Allen	1204 Ferguson

Remonstrance vs
Spreen Petition

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Hoyd R. Ware	3002 St Joe River Drive
Sally Ware	3002 ST. JOE RIVER DRIVE
Diana Wiley	2807 Parnell Ave
Viola McKeefe	2904 St Joe River Dr.
Ralph C McKeefe	2904 St. Joe River Dr.
Howard Beckstein	468 Stadium Ave
Edith Beckstein	468 Stadium Dr
Ead M. Meagher	519 Curdin
Vera L. Meagher	519 Curdin
Laurance F. Loomis	608 Kenwood Ave
Warren F. Loomis	620 Kenwood ave
Mary J. Loomis	620 Kenwood Ave.
Forrest Funk	618 Glacier ave
Thelma Funk	618 Glacier ave
Bill Knoske	636 Glacier ave
Mary Knoske	636 Glacier Ave
Jerome W. Cady	632 Glacier ave
Mary L. Cady	632 Glacier Ave
Harvard Grosse	636 Glacier Ave
Jersey Knoske	636 Glacier Ave
Millard O. Diehl	640 Glacier Ave
Helen L. Diehl	640 Glacier Ave
Pauline Laughlin	635 Glacier Ave

Remonstrance vs
Spreen Petition

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Alouys Laughlin
Robert Roach
Gene E. Roach
Robert C. Anderson
Mama J. Anderson
Carl E. ~~Anderson~~ McEble

635-1/2 Glazier Ave
710 GLAZIER AVE
710 Glazier Ave.
715 Glazier Ave
715 Glazier Ave
711 Glazier Ave

REMONSTRANCE
vs
SPREEN PETITION

The undersigned owners of property hereby respectfully submit that the Petition of Louise C. Spreen recently filed for the purpose of rezoning her property (Lots 9 and 10) located exclusively in a relatively large "R-1" District or area to an "R-3" District or area should be denied.

PROPERTY OWNERS

ADDRESSES

Mrs. Dale W. Crapson

3404 Parnell Ave

Mr. & Mrs. H. E. J.

3342 Parnell Ave

Mr. & Mrs. J. J. J.

3417 Parnell Ave

Mr. & Mrs. R. J. J.

3412 Parnell Ave

Mr. & Mrs. W. L. Cable

3418 Parnell Ave

Mr. & Mrs. Ervin Parker

3445 Parnell Ave

Mr. & Mrs. J. J. J.

3445 Parnell Ave

Mr. & Mrs. R. J. J.

3445 Parnell Ave

Varin G. Schick

3445 Parnell Ave

Mr. & Mrs. Don Zbruschen

3325 Parnell Ave

Mr. & Mrs. Paul Lewis

3328 Parnell Ave

Mr. & Mrs. Carl J. J.


1025 Somerset Ave

STATE OF INDIANA)
)
COUNTY OF ALLEN) SS:
)
CITY OF FORT WAYNE)

C E R T I F I C A T E

I the undersigned Clerk of the City of Fort Wayne,
Indiana, hereby certify that I am the Clerk of the Common
Council of the city of Fort Wayne, Indiana; and that the
foregoing copies of excerpts from the minutes of the regular
meeting of the Common Council of the City of Fort Wayne,
Indiana, held August 13, 1968 , are true and correct excerpts
and parts of the minutes of said regular meeting.

WITNESS MY HAND AND THE SEAL OF THE CITY OF Fort Wayne,
Indiana, this 13th day of August, 1968.


Frank H. Bonahoom
Clerk of the Common Council of the
City of Fort Wayne, Indiana

SEAL

Public Hearing was held Tuesday evening, August 13, 1968 at 7:30 o'clock P.M., N.E.T.
in the Council Chamber, City Hall, Fort Wayne, Indiana.

The Council then adjourned.

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of the City of Fort Wayne, Indiana and as such the custodian of the records of the Common Council of said city and that the above and foregoing is the true, full and complete record of the proceedings of the Common Council of the City of Fort Wayne, Indiana for its Regular Session, held on Tuesday, the 13th day of August, 1968; that the numbered ordinances shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor as and on the dates shown as to each such ordinance respectively; and that all such records, proceedings and ordinances remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 13th day of August, 1968.

Fuad G. Bonahoom

~~W. F. C. Myers~~
City Clerk

SEAL



City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held May 28, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. X-68-05-31.

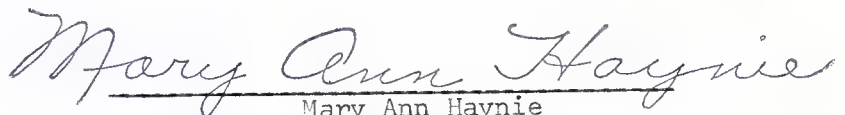
Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

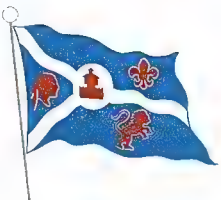
It is the recommendation of this Commission that the ordinance does meet the criteria for annexation and that the ordinance be returned to the Common Council with the recommendation that it DO PASS. It is further recommended that this ordinance be so enacted so as to become effective on July 1, 1970, and that the ordinance upon passage by the Council be advertised immediately in order to give ample opportunity to the various departments of the city to budget accordingly so that they might start providing municipal services upon the effective date of the ordinance.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.


Mary Ann Haynie
Secretary



MADE A MATTER OF RECORD

DATE 8-13-68 FUAD G. DONAHUE, CITY CLERK

City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held May 28, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. X-68-05-32.

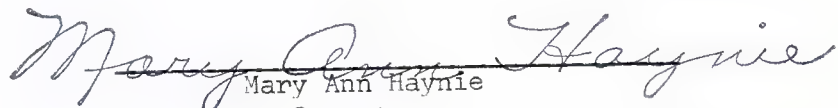
Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

It is the recommendation of this Commission that the ordinance does meet the criteria for annexation and that the ordinance be returned to the Common Council with the recommendation that it DO PASS. It is further recommended that this ordinance be so enacted so as to become effective on July 1, 1970, and that the ordinance upon passage by the Council be advertised immediately in order to give ample opportunity to the various departments of the city to budget accordingly so that they might start providing municipal services upon the effective date of the ordinance.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.


Mary Ann Haynie
Secretary





City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held May 28, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. X-68-05-33.

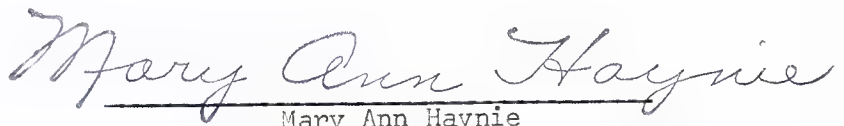
Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

It is the recommendation of this Commission that the ordinance does meet the criteria for annexation and that the ordinance be returned to the Common Council with the recommendation that it DO PASS. It is further recommended that this ordinance be so enacted so as to become effective on July 1, 1970, and that the ordinance upon passage by the Council be advertised immediately in order to give ample opportunity to the various departments of the city to budget accordingly so that they might start providing municipal services upon the effective date of the ordinance.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.


Mary Ann Haynie
Secretary





City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held June 25, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. 68-06-29.


Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

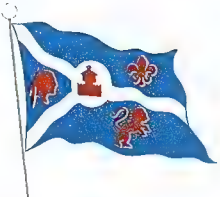
It is the considered opinion of the City Plan Commission that the area proposed for annexation does meet the criteria for annexation. Therefore, it is recommended that the proposed ordinance DO PASS and it is further recommended that this ordinance be so enacted so as to become effective as soon as possible.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.


Mary Ann Haynie
Secretary





City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held June 25, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. 68-06-30.

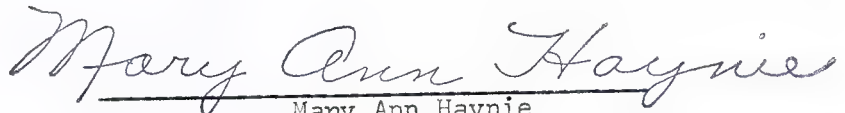
Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

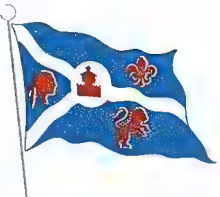
It is the considered opinion of the City Plan Commission that the area proposed for annexation does meet the criteria for annexation. Therefore, it is recommended that the proposed ordinance DO PASS and it is further recommended that this ordinance be so enacted so as to become effective as soon as possible.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.


Mary Ann Haynie
Secretary





City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held June 25, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. X-68-06-31.

Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

It is the recommendation of this Commission that the ordinance does meet the criteria for annexation and that the ordinance be returned to the Common Council with the recommendation that it DO PASS. It is further recommended that this ordinance be so enacted so as to become effective on January 1, 1970, and that the ordinance upon passage by the Council be advertised immediately in order to give ample opportunity to the various departments of the city to budget accordingly so that they might start providing municipal services upon the effective date of the ordinance.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.

Mary Ann Haynie

Mary Ann Haynie
Secretary





City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held June 25, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. X-68-06-32.

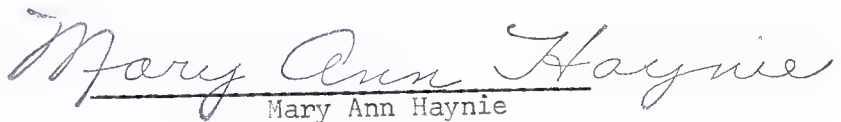
Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

It is the recommendation of this Commission that the ordinance does meet the criteria for annexation and that the ordinance be returned to the Common Council with the recommendation that it DO PASS. It is further recommended that this ordinance be so enacted so as to become effective on January 1, 1970, and that the ordinance upon passage by the Council be advertised immediately in order to give ample opportunity to the various departments of the city to budget accordingly so that they might start providing municipal services upon the effective date of the ordinance.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.


Mary Ann Haynie
Secretary





City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held June 25, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. X-68-06-33.

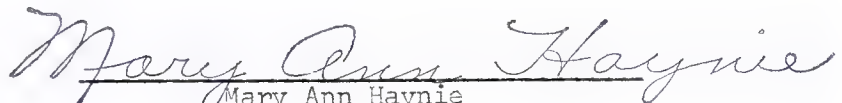
Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting Held July 22, 1968.

It is the recommendation of this Commission that the ordinance does meet the criteria for annexation and that the ordinance be returned to the Common Council with the recommendation that it DO PASS. It is further recommended that this ordinance be so enacted so as to become effective on January 1, 1970, and that the ordinance upon passage by the Council be advertised immediately in order to give ample opportunity to the various departments of the city to budget accordingly so that they might start providing municipal services upon the effective date of the ordinance.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.


Mary Ann Haynie
Secretary





City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held June 25, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. 68-06-34.

Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

It is the recommendation of this Commission that the ordinance does meet the criteria for annexation and that the ordinance be returned to the Common Council with the recommendation that it DO PASS. It is further recommended that this ordinance be so enacted so as to become effective on January 1, 1969, and that the ordinance upon passage by the Council be advertised immediately in order to give ample opportunity to the various departments of the city to budget accordingly so that they might start providing municipal services upon the effective date of the ordinance.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.

Mary Ann Haynie
Mary Ann Haynie
Secretary





City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held July 9, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. X-68-07-16.

Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

It is the recommendation of this Commission that the ordinance does meet the criteria for annexation and that the ordinance be returned to the Common Council with the recommendation that it DO PASS. It is further recommended that this ordinance be so enacted so as to become effective on January 1, 1972, and that the ordinance upon passage by the Council be advertised immediately in order to give ample opportunity to the various departments of the city to budget accordingly so that they might start providing municipal services upon the effective date of the ordinance.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.

Mary Ann Haynie
Mary Ann Haynie
Secretary





City of Fort Wayne

CITY PLAN COMMISSION
425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held July 9, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. X-68-07-15.

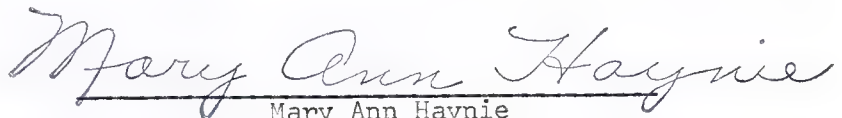
Transmitted herewith is the report of the City Plan Commission as formulated at its regular meeting held July 22, 1968.

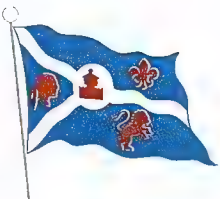
It is the recommendation of this Commission that the ordinance does meet the criteria for annexation and that the ordinance be returned to the Common Council with the recommendation that it DO PASS. It is further recommended that this ordinance be so enacted so as to become effective on January 1, 1971, and that the ordinance upon passage by the Council be advertised immediately in order to give ample opportunity to the various departments of the city to budget accordingly so that they might start providing municipal services upon the effective date of the ordinance.

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.


Mary Ann Haynie
Secretary





City of Fort Wayne

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425 S. Calhoun Street

July 23, 1968

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Members of the Common Council
City Hall
Fort Wayne, Indiana

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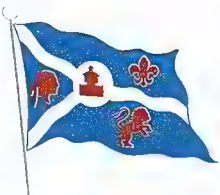
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City of Fort Wayne

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425 S. Calhoun Street

July 23, 1968

COMMUNICATION FROM CITY PLAN COMMISSION

Members of the Common Council
City Hall
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

At the regular meeting of the Common Council held July 9, 1968, a proposed ordinance annexing territory to the City of Fort Wayne was introduced and referred to the City Plan Commission for study and recommendation. Such proposed ordinance was designated as Bill No. X-68-07-18.

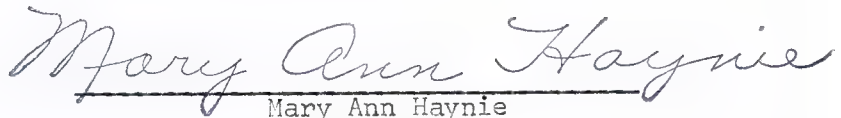
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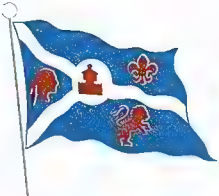
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Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
23rd day of July 1968.


Mary Ann Haynie
Secretary





City of Fort Wayne

BOARD OF PUBLIC SAFETY

COMMUNICATION FROM BOARD OF PUBLIC SAFETY

July 25, 1968

President of the Common Council
City of Fort Wayne, Indiana

Dear Sir:

Attached herewith is an authenticated copy of the Board of Public Safety Regulatory Resolution number 45-68/E.

For the purpose of enforcement, please make this communication and the attached Regulatory Resolution a matter of record and incorporate same into the minutes of the next Common Council Meeting.

Respectfully submitted,

Melvin H. Heckman, Chairman
BOARD OF PUBLIC SAFETY

BY: *George W. Bormuth*
George W. Bormuth, Exec. Sec'y.

mb



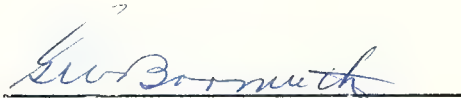
MADE A MATTER OF RECORD

DATE 8-13-68 FUAD G. BONAHTON, CITY CLERK

RETURN CERTIFICATE

(Regulatory Resolution No. 45-68 / E)

I hereby certify that I did this 25th day of July, 1968 deliver to each, the City Traffic Engineer, the Chief of Police, the City Attorney, The City Clerk and the President of the Common Council of the City of Fort Wayne, Indiana, respectively, a copy of the within Regulatory Resolution No. 45-68 / E of the Board of Public Safety of the City of Fort Wayne, duly certified by me as Secretary of said Board, in accordance with the provisions of Section 20 (a) of Chapter 31, Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance G-55, adopted FEB. 14, 1961.



EXECUTIVE SECRETARY

REGULATORY RESOLUTION NO. 45-68/E

(Adopted July 24, 1968)

WHEREAS, Section 20(a) (3), Chapter 31, Municipal Code of the City of Fort Wayne, Indiana, as amended by General Ordinance No. G-55 adopted FEB. 14 1961 authorizes the Board of Public Safety to make experimental regulations to cover special conditions; and,

WHEREAS, a special condition has arisen justifying the Experimental Regulation hereinafter ordered, with regard to no parking, 30 minute parking 8:00 A.M. to 6:00 P.M., one-hour parking 8:00 A.M. to 6:00 P.M. deletion, stop intersections & thru street; and,

WHEREAS, the City Traffic Engineer has, by written memorandum dated July 10 & 24, 1968, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA:

That, pursuant to the authority granted to this Board by Section 20 (a) (3) of Chapter 31 of the Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance No G-55. adopted FEB. 14, 1961. to make experimental regulations to cover special condi-

tions, it is hereby ordered, effective July 24,

1968, and for a period of sixty (60) days thereafter, and when signs are erected pursuant hereto giving notice thereof, that THE FOLLOWING BE ESTABLISHED:

A. No Parking:

1. Forest Avenue - south side - from Pemberton Dr. to Randalia Dr.

B. 30 Minute Parking 8:00 A.M. to 6:00 P.M.:

1. Jefferson Street - south side - from Harrison St. to Calhoun St.

C. One-Hour Parking 8:00 A.M. to 6:00 P.M.:

DELETE

1. Jefferson Street - south side - from Harrison St. to Calhoun St.

(over)

D. Stop Intersection:

1. Plaza Drive - STOP - for Werling Dr.
2. Plaza Drive - STOP - for Anthony Wayne Dr.
3. Werling Drive - STOP - for Plaza Dr.
4. Anthony Wayne Drive - STOP - for Plaza Dr.

E. Thru Street:

1. McKinnie Avenue except at Wayne Trace.

CLERK-TREASURER'S, CITY CONTROLLER'S AND CITY TREASURER'S MONTHLY FINANCIAL STATEMENT

Prescribed by State Board of Accounts

MONTH OF JULY 19 68

FUNDS	TOTAL JAN. 1 BALANCE AND RECEIPTS TO DATE 1	RECEIPTS FOR MONTH 2	TOTAL BALANCE AND RECEIPTS 3	DISBURSED TO DATE 4	DISBURSED FOR MONTH 5	TOTAL DISBURSEMENTS 6	TREASURER'S ENDING BALANCE 7	CONTROLLER'S ENDING BALANCE 8
GENERAL	4744,024.02	240,186.05	4984,210.07	3673,854.86	1123,545.13	4797,399.99		186,810.08
AVIATION	486,604.00		524,844.30	404,003.19	62,316.11	466,319.30		58,525.00
PARK-GENERAL	1541,663.03	38,240.30	1629,514.33	1052,186.97	267,131.61	1319,318.58		310,195.97
PARK-TRUST	88,386.56	87,851.52	89,113.48	27,824.25	3,001.68	30,825.93		58,287.55
REDEVELOPMENT DISTRICT GENERAL	77,279.05	726.92	77,579.85	20,464.25	10,032.94	258,750.18		47,982.75
REDEVELOPMENT DISTRICT CAPITAL	411,484.83		411,484.83	258,616.40	10,032.94	258,750.18		154,934.67
REDEVELOPMENT DISTRICT BOND	9,785.00		9,785.00					9,785.00
MOTOR VEHICLE HIGHWAY	1395,611.93	492,651.87	1888,263.80	985,813.99	501,507.12	1487,321.11		400,942.69
PARKING METERS	270,820.70	106,804.53	377,625.23	241,017.49	103,367.50	344,384.99		33,240.24
SEWER RELIEF	656,099.06	153,755.31	809,854.37	430,204.08	174,122.93	604,327.01		205,527.36
FLOOD PRE. BRIVER IMPROVEMENT	70,024.28		70,024.28	17,614.80	3,868.58	21,484.38		48,533.90
PARKING GARAGE	75,246.57	7,602.35	82,848.92	50,795.43	8,439.79	59,235.22		23,613.70
PUBLIC LIGHTING	65,584.07		65,584.07	19,524.17	5,485.19	25,009.36		40,574.71
STREET SPECIAL	3,976.39		3,976.39	93.60	50.00	143.60		3,832.79
EXPRESSWAY	64,844.35		64,844.35	63,325.01		63,325.01		1,319.34
ST. MARY'S RIVER IMPOUNDING	254,927.22	50,000.00	304,927.22	214,367.94	51,860.50	266,228.44		38,698.78
HUMANE TRUST	2,266.28	273.00	2,539.28	1,059.45	60.00	1,119.45		1,419.83
R-52A ANTHONY WAYNE BANK	1896,002.28	601,458.50	2497,460.78	1895,090.78		1895,090.78		602,370.00
BARRETT LAW MANDATORY JUDGEMENT	34,316.43		34,316.43	3,970.76		3,970.76		30,345.67
FIRE PENSION	384,675.14	4,585.00	389,260.14	218,928.12	445,479.54	264,407.66		124,852.48
POLICE PENSION	388,175.86	4,471.95	392,647.81	242,162.15	51,848.19	294,010.34		98,637.47
SANITARY OFFICERS PENSION	32,222.72	315.00	32,537.72	10,800.60	2,340.82	13,141.42		19,396.30
FORT WAYNE ART SCHOOL	16,218.73		16,218.73	16,218.73		16,218.73		-0-
CITY-COUNTY BUILDING	3557,761.20		3557,761.20	3459,274.37		3459,274.37		98,486.83
R-51 FORT WAYNE NATIONAL BANK	1044,909.82	322,000.00	1366,909.82	986,478.97	310,232.71	1296,711.68		70,198.14
R-52 LINCOLN NATIONAL BANK	1432,882.66		1432,882.66	1365,802.37	32,505.89	1398,308.26		34,574.40
CUMULATIVE CAPITAL	585,995.31	768,541.43	1354,536.74	573,641.30	695,730.70	1269,372.00		85,164.74
REVOLVING R-53	88,689.92	22,499.50	111,189.42	61,673.47	11,115.92	72,789.39		38,400.03
UTILITIES-ELECTRIC	9588,062.47	629,837.21	10217,899.68	8826,383.26	686,126.25	9512,509.51		705,390.17
UTILITIES-WATER (incl. WW Const.)	8035,937.46	1712,265.12	9748,202.58	6556,292.76	2297,596.29	8853,889.05		894,313.53
UTILITIES-SEWER	5399,823.32	448,775.87	5848,599.19	4920,688.78	243,889.19	5164,577.97		684,021.22
MUNICIPAL UTILITIES PENSION	45,745.81	6,479.02	52,224.83	38,391.82	6,576.34	44,968.16		7,256.67
CUMULATIVE PARK BUILDING	54,263.43		54,263.43					54,263.43
R-51 ANTHONY WAYNE BANK	301,218.84	637,771.09	938,989.93	300,959.85		300,959.85		638,030.08
SINKING	118,697.25		118,697.25	118,697.25		118,697.25		-0-
CHANGE	500.00		500.00					500.00
PAYROLL	3593,410.02	989,284.90	4582,694.92	3808,133.13	741,902.39	4550,035.52		32,659.40
TOTALS	46818,236.01	7326,376.44	54144,612.45	40862,354.36	7440,267.17	48302,621.53		5841,990.92

ADJUSTMENTS (explain fully)

BALANCE (Col. 7 must agree with Col. 8)

